ARTICLE 1

PURPOSE AND AUTHORITY

1.1 Short Title

This Ordinance shall be known and may be cited as the "Midland Development Ordinance."

1.2 Enactment and Repeal

1.2-1 Enactment. This Ordinance is hereby enacted and shall be the Land Development Ordinance for the Town of Midland, hereinafter "the Town" and the areas within its extraterritorial jurisdiction. This ordinance supersedes the "Town of Midland Zoning Ordinance", the "Town of Midland Subdivision Regulations", "Mobile Home & Mobile Home Park Ordinance", and "Flood Damage Prevention Ordinance", each of which is hereby repealed.

ADOPTED this the 13th day of SEPTEMBER, 2011.

ATTEST

s/ Kathy Kitts
_____
Mayor

s/ Nancy E. Boyden, CMC
_____
Town Clerk

1.2-2 Effective Date. This Ordinance shall become effective upon adoption.

1.3 Purpose

1.3-1 General Purpose. It is the purpose of this Ordinance to promote the health, safety, and the general welfare of the residents of the Town of Midland and its extraterritorial jurisdiction through the stated regulations of this Ordinance which include provisions to regulate zoning, cluster development, planned unit developments, manufactured housing, development of subdivisions, signs, off-street parking and loading, planting yards, watershed protection, and flood damage prevention.

1.3-2 Implementation of Land Use and Comprehensive Master Plans. This Ordinance shall be used to implement the "Midland Land Use Plan", adopted May 11, 2010, including subsequent amendments, and the "Town Plan 2030 – Land Use and Comprehensive Master Plan – Revision 1", adopted August 9, 2011 including subsequent amendments adopted by the Town Council of the Town of Midland. See Section 1.5.

1.4 Guiding Principles

The guiding principles reflected in this ordinance are those stated in the "Midland Land Use Plan", adopted May 11, 2010, including subsequent amendments, and the "Town Plan 2030 – Land Use and Comprehensive Master Plan – Revision 1", adopted August 9, 2011

including subsequent amendments adopted by the Town Council of the Town of Midland. These principles are:

(A) Ensure that Midland's development policies are conducive to the long-term vision for the future and adequately control the location and appearance of future development;
(B) Improve the effectiveness of Town government and achieve greater autonomy through the fostering of greater coordination among Town officials, governing boards, and citizens on development decisions;
(C) Enhance existing Town services and add new services and programs to allow for future development in designated areas and to ensure that all citizens have access to essential services;
(D) Encourage the establishment of a Town tourism program and coordinate with local tourist attractions to create a regional tourism destination center;
(E) Develop new recreational and cultural facilities, programs, and events that accommodate a variety of uses and appeal to both Town residents and visitors; and,
(F) Preserve and protect areas of historic significance and natural countryside throughout the Midland area.

1.5 Relationship to Land Use and Comprehensive Master Plans

The administration, enforcement, and amendment of the Midland Development Ordinance shall be carried out consistently with plans and documents comprising the "Midland Land Use Plan", adopted May 11, 2010, including subsequent amendments, and the "Town Plan 2030 – Land Use and Comprehensive Master Plan – Revision 1", adopted August 9, 2011 including subsequent amendments adopted by the Town Council of the Town of Midland. New planning documents or small area plans adopted by the Town Council are automatically incorporated into this Ordinance. See Section 1.3-2.

1.6 Jurisdiction

The provisions of this Ordinance shall apply to all the territory encompassed in the Town of Midland, North Carolina, and its extraterritorial jurisdiction as now or hereafter fixed, as depicted on the Town's Official Zoning Map on file at the Midland Town Hall. This map is hereby incorporated and made a part of this Ordinance. This Ordinance shall govern the development and use of all land and structures within the Town and its area of extraterritorial jurisdiction as provided for by Article 19 Planning and Regulation of Development, of NCGS 160A Cities and Towns.

1.7 Authority

This ordinance is adopted pursuant to portions of one or more of the following authorities in NCGS: Chapter 160A (Cities and Towns), Chapter 113A (Pollution Control and Environment), Chapter 121 (Environmental Controls), Chapter 133 (Public Works), and Chapter 136 (Roads and Highways). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

1.8 Conflict or Inconsistency with Other Laws, Covenants, Deed Restrictions, or Agreements

1.8-1 Relation of this Ordinance to Other Regulations. This Ordinance is not intended to abrogate any other law, ordinance, or regulation. However, where conditions, standards, or requirements imposed by any provision of this Ordinance are either more restrictive or less restrictive than standards imposed by any other law, ordinance or regulation, the provisions which are more restrictive or which impose higher standards or requirements shall govern. In cases where reference is made to the North Carolina General Statutes, or any provision thereof, said reference shall be to the current language of said statute or provision. Whenever a process is prescribed by this Ordinance, and said process contains requirements in addition to those prescribed by state law, the process prescribed in this Ordinance shall be deemed supplemental; state law shall control.

1.8-2 Conflicting Provisions of this Ordinance. In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance in applying them to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts set forth in Article 8 of this Ordinance shall control in the event of any conflict between those regulations and regulations which are set forth in Article 8 of this Ordinance for the underlying district. In the event of a conflict or inconsistency between the text of this Ordinance and any caption, figure, illustration, or map contained herein, the text shall control.

1.8-3 Conflicts with Covenants, Deed Restrictions, etc. This Ordinance is not intended to abrogate any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this Ordinance shall govern.

1.8-4 Effect on Existing Agreements. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, or permits previously adopted or issued pursuant to law.

1.9 Severability

If any section or specific provision or standard of this ordinance or any regulating district boundary arising from it is found by a court to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect, impair, or

invalidate the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

1.10 Interpretation of Ordinance

1.10-1 Minimum Requirements; Greater Restrictions Govern. In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements. If any federal or state law or other ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governing authority, the regulations imposed by that authority shall govern.

1.11 Rules of Construction

1.11-1 Word Interpretation.

(A) Words not defined in this Ordinance shall be given their ordinary and common meaning.

(B) Words used in the present tense include the future tense.

(C) Words used in the singular number include the plural number and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise.

(D) Words used in the male gender include the female gender.

(E) The words "shall," "will," and "must" are mandatory in nature implying an obligation or duty to comply with the particular provision.

(F) Any act authorized by this Ordinance to be carried out by a specific official of the Town is, by implication, authorized to be carried out by a designee of that official.

1.11-2 Relationship of this Ordinance to Any Pending Action. The adoption of this Ordinance shall not affect any action, suit, notice of violation, citation, or proceeding that may be pending at the date this ordinance becomes effective. All rights and liabilities that have been received or created and any violation that has occurred under any previous provisions of the Code of Ordinances of the Town of Midland that have been superseded by this Ordinance are still valid and may be preserved and enforced.

1.12 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified except as authorized by this Ordinance.

No applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments that have received staff approval, Enforcement Officer approval, or a building permit before the effective date of this Ordinance may proceed in accordance with such approval or permit while such approval or permit remains in effect.

1.13 Establishment of Official Zoning Map

1.13-1 Official Zoning Map. The Town, and its extraterritorial jurisdiction as now or hereafter fixed, is hereby divided into zones, or districts, as established in Article 8 (Zoning Districts) and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map is on file with the Town Clerk and the *Planning, Zoning and Subdivision Administrator* at the Midland Town Hall.

1.13-2 Map Certification and Changes. The Official Zoning Map shall be attested by the Town Clerk and shall bear the seal of the Town together with the effective date of the adoption of this Ordinance. If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

1.14 Interpretation of District Boundaries

1.14-1. Boundary Interpretation. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply in the interpretation of area boundaries and the location of lines shown on the map:

(A) Centerline: Where a boundary line lies within and follows a street or *alley* right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or *alley* right-of-way, railroad right-of-way, or utility easement. If such a street or *alley* right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is *abandoned* or removed from dedication, the district boundaries shall be construed as following the centerline of the *abandoned* or vacated road bed or utility easement.

(B) Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located. Split zoning of lots should be avoided to the extent possible, with zoning boundaries following lot lines where feasible.

(C) Town Limits: Boundaries indicated as approximately following the town limits or extraterritorial boundary lines of the Town of Midland shall be construed as following the town limits or extraterritorial boundary lines.

(D) Watercourses: Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be

construed to follow such center lines and shall be construed to reflect the naturally occurring changes to the location of the watercourse which may occur over time.

(E) Extensions: Boundaries indicated as parallel to or extensions of street or *alley* rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, town limits, county lines, or extraterritorial boundaries shall be so construed.

(F) Scaling: In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Hazard Area, Corps of Engineering work maps, if available, shall be used for scaling.

(G) Other: Where the actual location of existing physical or natural features vary with those shown on the Official Zoning Map, or in other circumstances not addressed in this section, the Planning and Zoning Commission shall have the authority to interpret the district boundaries.

1.15 State of Emergency

These rules may be temporarily suspended during federal disaster "state of emergency" declarations by the Executive Office of the President and/or Federal Emergency Management Administration (FEMA) and/or during "Imminent Threat Alert" declared by the U.S. Department of Homeland Security by resolution adopted by the Town Council during a regular, continued, special or emergency meeting of the Town Council. The *Planning, Zoning and Subdivision Administrator* may suspend the application of all or part of these rules during a state of emergency declared by the Governor of the State of North Carolina.

Upon the conclusion, lifting, and/or resending of the declared "state of emergency" by the authorized federal and/or state official, these rules are reinstated without further action by the Town and shall be in full force and effect.