

BOROUGH OF MIDLAND PARK
280 Godwin Avenue
Midland Park NJ 07432
June 10, 2021

8:00 PM Open Public Meeting Minutes

On June 10, 2021 at 8:00 p.m., the Mayor and Council of Midland Park conducted an in person meeting, the location has changed to 280 Godwin Avenue, there was also an option for the public to access the meeting electronically by dialing this Toll-Free Dial in number [1 866 899 4679](tel:8668994679) Access Code: 766-030-917

Agenda items for the meeting were listed on the Borough website. The foregoing electronic option was recommended due to the current situation involving the COVID-19 Virus and directives of State and County governments.

The **Mayor** called upon **Councilwoman DeLuca** to give this evening's Invocation, and then the **Mayor** led all present in the Pledge of Allegiance.

Mayor Shortway called the meeting to order, noting the date as June 10, 2021, and that there will be a 3-minute limit to each individual addressing the Governing Body during the Open Public portions of the meeting.

SUNSHINE LAW STATEMENT: This meeting is being held in accordance with the Sunshine Law, notice having been published according to law with a copy on file in the Borough Clerk's Office and a copy posted on the bulletin board in the Municipal Building.

Roll Call:	Mayor Shortway	Present
	Councilman Damiano	Present
	Councilman Kruis	Present
	Councilman Sansone	Present
	Councilwoman DeLuca	Present
	Councilwoman Peet	Present
	Council President Iannone	Absent

ALSO PRESENT: Borough Attorney Regan and Acting Borough Administrator/Borough Clerk Martin

APPROVAL OF MINUTES:

No minutes available for approval at this time.

OPEN TO THE PUBLIC:

The **Mayor** opened the meeting to the public for general questions, concerns and comments.

Amber Garcia – 38 Van Blarcom Avenue – spoke of her great concerns regarding the amount of traffic and reckless driving in her neighborhood. She thanked **Mayor Shortway** for his daily presence, monitoring what’s happening. She presented the Governing Body with an idea to separate the business section of the neighborhood from the residential section. Acting Administrator Martin stated the attorney handling the Starbucks has put in a request, as per the plan, for the six month traffic study; she has set up a meeting with the Traffic Officer, the Zoning Official, the **Mayor**, the Police Chief and herself to go over the ideas and suggestions that have been made and will reach out to Mrs. Garcia to advise her of the outcome. As Mrs. Garcia was stepping down, **Mayor Shortway** asked her for more details about her idea to dead-end Van Blarcom. A brief discussion ensued regarding several points that may make the idea unusable. The **Mayor** told her they would discuss the idea and have the Borough’s engineer and the Department of Public Works Superintendent also weigh in with their thoughts. Mrs. Garcia said she would email the diagram she had of her idea to Borough Clerk Martin.

Acting Administrator/Clerk Martin asked members of the public on the phone to speak at this time.

There was no one on the line at this time.

LIAISON REPORTS:

Mayor Shortway

Mayor Shortway reported on June 8th, he attended the Bergen County mayors’ meeting in Hackensack: the guest speaker was the President of the Bergen County Community College. He attended Ridgewood Water’s 100th anniversary at Graydon Pool in Ridgewood on Tuesday.

Councilwoman DeLuca Public Safety – Fire/Ambulance/Library

Councilwoman DeLuca reported the **Ambulance Corps** meeting was on June 7th: they answered 45 calls for service in May, totaling 251 miles.

Councilwoman DeLuca reported she attended the **Fire Department’s** monthly meeting: they responded to 15 calls during May and there is progress.

Councilwoman DeLuca reported the **Library** continues to hold various programs for adults and children, please check their website or the Borough’s newsletter for details; the town-wide Scavenger Hunt will begin on July 1st and is open to all; the Friends of the Library will be hosting three outside Summer Concerts, weather permitting, on July 7th, 14th and 21st. The

Councilwoman stated she met with the Finance Committee, as to their use of funding and need to invest more into services, technology and programs to meet the desires of the residents’ usage, which is expanding. She noted this will be a topic of discussion at the Library Board’s next meeting, planned for June 15th and she will give a report at the next Council meeting.

Councilman Damiano Finance/Recreation/Information Technology

Councilman Damiano reported progress for **Finance, Recreation and Information Technology**.

Council President Iannone Public Safety – Police/ Personnel/Ridgewood Water

Due to **Council President Iannone’s** absence, Borough Clerk Martin gave the report: the **Police Department** applied for and was awarded a grant, totaling \$34,646, to update and maintain the

ORDINANCES ON FINAL:

1. ORDINANCE #08-21

“AN ORDINANCE TO AMEND AND REPLACE IN ITS ENTIRETY CHAPTER 34 OF THE CODE OF THE BOROUGH OF MIDLAND PARK ENTITLED, “ZONING

BE IT ORDAINED by the Mayor and Council of the Borough of Midland Park, in the County of Bergen, and State of New Jersey as follows:

§34-1 GENERAL PROVISIONS.

§34-1.1 Short Title.

This chapter shall be known as the "Zoning Regulations of the Borough of Midland Park".

§34-1.2 Purpose.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals and general welfare. Among other purposes, such provisions are intended to provide for adequate light, air and convenience of access; to lessen congestion in the streets; to secure safety from fire and other dangers; to avoid undue concentrations of population by regulating and limiting the use of land and the height and bulk of buildings wherever erected; to limit and determine the size of yards, courts and other open spaces; and to regulate the density of population, all with reasonable consideration to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of property and encouraging the most appropriate use of land throughout the Borough of Midland Park.

§34-1.3 Scope.

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws and ordinances, except those specifically or impliedly repealed in this chapter, or any private restrictions placed on property by covenant, deed or other private agreement unless repugnant hereto. Where this chapter imposes a greater restriction upon the use of the buildings or premises or upon the height of the buildings, or lot coverage, or requires greater lot areas or larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits or by such private restrictions, the provisions of this chapter shall control.

§34-1.4 Prohibited Use In All Zones.

In every zoning district referred to in §34-2 of this Chapter, no land or building shall be used or allowed to be used for the sale or distribution of marijuana, which includes retail and wholesale marijuana stores, retail and wholesale marijuana cultivation facilities, retail and wholesale marijuana products manufacturing facilities, and retail and wholesale marijuana testing facilities; and the operation of retail and wholesale marijuana social clubs. All activities related to the abovementioned retail and wholesale uses such as, but not limited to, cultivation, possession, extraction, manufacturing, processing, storing, laboratory testing, labeling, transporting, delivering, dispensing, transferring and distributing are expressly prohibited within the Borough. In addition, the sale of vaping products shall be prohibited. The foregoing shall not be construed to limit any privileges or rights of a qualifying patient, primary caregiver, registered or otherwise, or registered dispensary pursuant to the New Jersey Compassionate Use Medical Marijuana Act, *N.J.S.A. 24:61-1*.

§34-1.5 Fines and Penalties.

Any person, firm or entity violating the provisions of this Ordinance shall be liable to a penalty of up to \$1,000.00 for the first violation, and up to \$2,000.00 and or imprisonment for a term not exceeding ninety (90) days, for each subsequent violation.”

§34-2 ZONING DISTRICTS.

§34-2.1 Zoning Districts Designated.

For the purpose of this chapter, the Borough of Midland Park is hereby divided into nine (9) zone districts known as:

- a. R-1 Residential Single Family
- b. R-2 Residential Multi-Family
- c. R-3 Residential (Age-Restricted, Multi-Family)
- d. B-1 Business District Retail
- e. B-2 Professional Offices
- f. B-3 Business Retail/Office
- g. I-1 Office/Research Laboratory
- h. I-2 Industrial
- i. ASFD Attached Single-Family Dwelling
- j. MFO-1 Multifamily Overlay 1
- k. MFO-2 Multifamily Overlay 2

§34-2.2 Zoning Map and Schedule.

The map entitled "Zoning Map, Borough of Midland Park, Bergen County, New Jersey" prepared by Burgis Associates, Inc. dated December 14, 2017 delineating the above zone districts and the Schedule of Bulk Requirements which accompany this chapter are hereby declared to be part hereof. Any use not specifically designated as a principal permitted use, an accessory use or a conditional use is specifically prohibited from any district.

The Zoning Map shall become the Official Map of the Borough. (The Zoning Map and Schedule I, Schedule of Area Bulk and Yard Requirements, referred to herein, may be found at the end of this chapter).

§34-2.3 Height Exceptions.

The height provisions of this chapter shall not apply to church spires, belfries, and domes, air-conditioning and ventilating equipment, chimneys, radio, television and telecommunication antennas, bulkheads, elevator enclosures, water tanks or similar accessory structures occupying an aggregate of twenty (20%) percent or less of the area of the roof on which they are located, and further provided that such structures do not exceed the height limit by the less of twenty (20%) percent of the height limit or ten (10) feet. All structures shall meet all height limitations required by the Federal Aviation Administration. Nothing in this chapter shall prevent the erection above the height limitation of a parapet wall or cornice extending above such height limit not more than three (3) feet.

§34-2.4 Boundary Lines.

Zone district boundary lines as shown on the Zoning Map accompanying this chapter are intended to coincide with lot lines, the center lines of streets, drainage courses or railroads as they existed at the time of adoption of this chapter, or they are designated on the Zoning Map by figures or dimensions whenever a zoning district boundary is located not farther than twenty-five

(25) feet away from a lot line of record, such boundary line shall be construed to coincide with such line. In case of uncertainty or disagreement as to the true location of any zone boundary line, the determination thereof shall lie with the Board of Adjustment.

§34-2.5 Effect of Zoning.

No land or premises may be used and no building or structure may be erected, raised, moved, extended, enlarged, altered or used for any purpose other than a purpose permitted herein, in the district so located, and all construction shall be in conformity with the regulations provided for the district in which such building or premises is located. The control and regulation of the nature and extent of uses of structures as herein provided shall apply equally to the nature and extent of the uses of land.

§34-3 DEFINITIONS.

§34-3.1 Words and Terms Defined.

a. For the purpose of this chapter the terms used herein are defined as follows:

Accessory Building – A subordinate building on the same lot with a principal building occupied or devoted exclusively for an accessory use. Where an accessory building is attached to a principal building, it shall be considered part of the principal building. This building shall be non-habitable.

Accessory Structure — A subordinate structure on the same lot with a principal building or structure, occupied or devoted exclusively for an accessory use. Also included, but not limited to all "tent-like" structures used as garages or storage facilities, pools/ponds, swing sets, trampolines, animal coops, tree houses, patio, antennas, solar systems, satellite dishes, generators, HVAC units and any other similar as deemed by the Zoning Official. Where a deck or raised patio is touching a wall or covered by a roof of the principal structure the deck or raised patio shall be considered part of the principal structure.

Accessory Use — A use naturally and normally incident and subordinate to the principal use of a structure, lot or business, and operated by the same entity as the principal use.

Acid Producing Soils — Soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid producing soils, upon excavation, generally have a pH of 4.0 or lower. After exposure to oxygen, these soils generally have a pH of 3.0 or lower. Information regarding the location of acid producing soils in New Jersey can be obtained from local Soil Conservation District offices.

Advertise — Giving or attempting to give or intending to give any notice or information, or any activity which gives, or attempts to give or intends to give notice, information or warning.

Alteration of a Building or Structure — A change in the supporting members of a building or structure; an addition, diminution, change in use or conversion of a building or a part thereof; or removal of a building from one location to another.

Alternative Tower Structure — Means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna — Means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless

telecommunications signals or other communication signals.

Applicant — A person, corporation, government body or other legal entity applying to the Planning Board, Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this section.

Approving Authority — Means the Planning Board or the Zoning Board of Adjustment of the Borough of Midland Park.

Area — The surface of a lot, building or structure measured on a horizontal plane.

Attic — An open, non-habitable space between the ceiling beams of the top story and the roof rafters of a building.

Backhaul Network — Means the lines that connect a providers towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Basement — A story partly but not more than one-half (1/2) below the average elevation of ground at the foundation wall. A basement shall be counted as a story in determining building height.

Billboard — A sign which directs attention to a business, commodity, service, entertainment, or attraction, conducted, sold or offered elsewhere than upon the lot on which such sign is located.

Boarder or Roomer — A person, not a member of a family as defined in this chapter, who pays for the privilege of meals, lodging or both.

Buildable Area — The portion of a lot remaining after the required yard and setbacks and required landscaped areas and buffer zones have been provided.

Building — A structure having a roof supported by columns, walls or similar structural parts, used or intended to be used for the housing, enclosure or shelter of persons, animals or property of any kind.

Building Area — For purposes of determining building coverage, the area of the building shall be the projected area on a horizontal plane of the outer extremities of the structure, including by way of example as part of the structure in determining said outer extremities, the foundation, roofs, protruding floors, patios, and any overhangs and the floors of any structures not having a roof.

Building Coverage — That portion of a lot which is occupied by buildings and accessory structures but not including walkways, driveways, patios and open parking spaces.

Category One Waters or C1 Waters — Shall have the meaning ascribed to this term by the Surface Water Quality Standards, N.J.A.C. 7:9B, for purposes of implementing the antidegradation policies set forth in those standards, for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources.

Catering — A business involving the preparation of food for distribution off the premises.

Cellar — A story which is more than half below the average elevation of ground at the foundation wall. A cellar shall not be counted as a story in determining the height of a building.

Change in Use — As used in this chapter, change in use shall mean the new use of a building or premises which is of a different type, kind or nature from the previous existing use of said building or premises. Any new use for which any requirement of this chapter is different than for the previous existing use shall be considered a change in use.

Child Care Center — Every private child care center, day nursery, nursery school or other establishment of similar character for the care of children, in which any tuition fee or other form of compensation for the care of children is charged, in which more than five (5) children are cared for and which is licensed by the State of New Jersey pursuant to N.J.S.A. 30:5 B-1 et seq.

Circulation — Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings and transshipment points.

Commercial Vehicle — Includes every type of motor driven vehicle designed or used for commercial purposes, such as transportation of goods, wares, equipment and merchandise, including omnibuses and school buses, and every motor vehicle used for commercial purposes for drawing other vehicles and which is so constructed as not to carry any load thereon. Vehicles run on rails or tracks and vehicles of the passenger-motor-vehicle type are excluded.

Commercial Vehicle Auxiliary — Includes every type of vehicle designed or used for commercial purposes which is not motor-driven and which is designed to be drawn by another vehicle and to be attached to the towing vehicles.

Common Open Space — An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use and enjoyment of residents and owners of the development.

Common Ownership — Ownership of two (2) or more contiguous parcels of real property by one (1) person or by two (2) or more persons owning such property jointly, as tenants by entirety or as tenants in common.

Corner Lot — A lot at the junction of or having frontage on two (2) or more intersecting streets. In interpreting the front, side and rear yard, the lesser dimension shall be considered the frontage of the lot and the greater dimension as the depth of the lot. If the dimensions are equal, either dimension may be considered the frontage.

Conditional Use — A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this Zoning Chapter and upon issuance of an authorization therefor by the Planning Board.

Drainage — The removal of surface water or groundwater from land by drains, grading, or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen on point pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

Drive-thru/Drive-up Service Area — Any location where the customer pauses the vehicle for interaction with the business.

Dwelling, One-family — A building containing one (1) dwelling unit only and not occupied or designed for occupancy by more than one (1) family. A building intended for occupancy or occupied by two (2) or more families, with a separate and direct means of access to the outside for each family, and provided with separate cooking, sleeping and sanitary facilities for each family, separated from each other, either vertically or horizontally, shall not be construed to be a one-family dwelling.

Dwelling or Dwelling Unit — A building or portion thereof designed or used as the residence or sleeping place of a family.

Erect — To build, construct, attach, hang, place, reface, suspend or affix, and shall also include the painting of wall signs.

Essential Service — The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground, surface or aerial gas, electrical, steam or water transmission systems, including poles, wires, mains, drains, sewers, pipes, conduits, cable, fire alarm boxes and signals, light stations, telephone lines, hydrants and other similar equipment and adequate service by such public utilities or municipal, State, County, regional or Federal agencies or for the public health, safety or general welfare.

Existing — Any building or structure or use that was in existence on the effective date of this chapter.

Expansion — An increase in the amount of floor area used for an existing use.

FAA — Means the Federal Aviation Administration.

Family — Any group of two (2) or more persons living together as a single housekeeping unit and sharing cooking, sleeping and sanitary facilities to the exclusion of other occupants of the same building.

Family, Low Income — A household with a gross aggregate family income which does not exceed fifty (50%) percent of the regional median income with adjustments for household size.

Family, Moderate Income — A household with a gross aggregate family income which is greater than fifty (50%) percent of the regional median income, but which does not exceed eighty (80%) percent of said regional median income, with adjustments for household size.

Farmer's Market - An open-air location where vendors sell locally grown fruits and vegetables, baked goods, plants and flowers.

FCC — means the Federal Communications Commission.

Fence — Any artificially constructed barrier or wall of wood, masonry, stone, wire, plastic, metal or any other manufactured material or combination of these materials.

Flag Lot — A lot that does not have a continuous width from the street to the building setback line at least equal to the minimum street frontage required. For purposes of this definition, the portion of the lot abutting an improved street shall not be declared to be a private street so as to defeat the intent and purpose of this chapter.

Floor Area — The sum of the horizontal areas devoted to a use, including all sales, office, service, and storage space, measured from the exterior faces of exterior walls, the center

line of party walls separating two (2) buildings, or the center line of walls separating the uses. The floor area devoted to a use shall normally include the entire floor devoted to such use. In computing floor area per establishment, when several uses share one (1) floor, the publicly used spaces such as halls, elevator shafts, stairwells, and bathroom facilities shall be considered as divided among several uses proportionate to the private and separate spaces devoted to each use.

Floor Area, Building — The sum of the gross horizontal areas of all floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings, excluding: roof areas, but including cellar and basement areas used for storage or for the operation or land maintenance of the building and any and all parking structures or areas attached thereto, under or within the building.

Garage, Private — A detached accessory building or portion of the principal building used for the storage of a passenger vehicle or vehicles or commercial vehicles having no more than two (2) axles and owned or used by the occupant of the principal building. A minimum clear dimension of 9' wide by 18' long shall be required per vehicle.

Garden Apartment — A building or group of buildings situated on the same lot containing dwelling units intended as the residences for families on a rental basis or as a condominium or cooperative and conforming to the requirements in Section 34-6.

Ground Array — Shall mean the installation of solar panels on the ground or on a structure that has the sole primary purpose of supporting the solar panels.

Height — Maximum height of all structures shall be determined from the highest point, excluding chimneys, to the lowest adjacent grade, excluding basement walk-outs, measured at the minimum of four outermost corners of the structure, offset six (6) feet from the structure. The Maximum height shall be the average of these measurements.

Height, Antenna/Tower — Means, when referring to a tower or other structure, the distance measured from the lowest finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Home Occupation — An accessory use which is customarily carried on in a dwelling unit; is carried on by an occupant of the dwelling unit; clearly incidental or secondary to the residential use of the dwelling unit, and is conforming to all requirements of this ordinance. This use shall be carried on in the principal structure.

Hospital — A State accredited institution where persons are given in-patient and/or out-patient medical and surgical care, excluding institutions exclusively for mental patients and drug addicts.

Hotel — A building or buildings used primarily to provide shelter for overnight and resident guests for compensation with at least five (5) sleeping rooms.

Impervious Lot Coverage — That portion of a lot which is occupied by buildings, accessory structures, paved surfaces, structures, macadam, or other impervious materials. Above-ground or in-ground pools are not considered impervious. (Used for Site drainage calculations)

Improved Lot Coverage — The percentage of lot area which is improved with principal and accessory buildings, structures and uses, including but not limited to paved or gravel driveways, parking areas, garages, stepping stones, pavers, decks, walkways, in-ground pools and other man-made improvements. Above-ground pools are not considered improved coverage.

Institutional Use — A nonprofit public or quasi-public use such as a church, school, library, hospital, club, lodge and fraternal, civic, service or charitable organization.

Intermittent Stream — A surface water body with definite bed and banks in which there is not a permanent flow of water and shown on the New Jersey Department of Environmental

Protection Geographic Information System (GIS) hydrography coverages or, the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

Lake, Pond, or Reservoir — Any surface water body shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys; that is an impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water. This excludes sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

Lot Area — The total square unit contents included within lot lines.

Lot Corner — A parcel of land at the junction of and abutting on two (2) or more intersecting streets where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees. Any lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect, at an interior angle of less than one hundred thirty-five (135) degrees.

Lot, Depth — The minimum distance from the street line of a lot to the rear lot line of such lot.

Lot, Flag — See "Flag Lot."

Lot Frontage — The length of the front lot line or the length of a lot having frontage upon an improved street consistent with the standards for streets and roads established by the Borough.

Lot, Width — The distance between the side lines, measured parallel to the front lot line at the required front yard setback line.

Medical Office — A premises where human patients are treated by one person or group of licensed or certified medical professionals practicing any form of healing or health building service to humans, whether the practitioners are physicians (i.e. medical doctors), chiropractors, dentists, osteopaths, podiatrists, nurse practitioners, physicians assistants, or any similar medical profession that is licensed to prescribe pharmaceuticals, the practice of which is regulated by New Jersey law.

Mixed Use — A mixture of compatible commercial, office and residential land uses. It is based on an integrated, comprehensive design with respect to the location and relationship of the buildings, parking, landscaping, open space, roadways and walkways.

Motor Vehicle Service Station — A building or premises in which or upon which is conducted a business involving the retail sale and direct delivery to motor vehicles of gasoline and/or lubricating oil, and/or diesel fuel, but not including liquid propane or bottled fuels, which business may or may not include facilities for servicing motor vehicles, but shall not include facilities for body repair work or painting or for an automatic car wash.

Motor Vehicle Repair Shop — A business which services and repairs motor vehicles without the sale of gasoline or other fuels, but not including facilities for body repair work or painting or for an automatic car wash.

Nonconforming Lot — A lot with the area, dimension or location which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nonconforming Structure — A structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nonconforming Use — A use or activity which was lawful prior to the adoption, revision or amendment of this chapter but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

Nursery School — See "Child Care Center."

Official Map — The map adopted in accordance with N.J.S.A. 40:55D-32 et seq., or any prior act authorizing such adoption. Such map shall be deemed conclusive with respect to the location, width and extent of streets and other areas shown thereon, as provided in N.J.S.A. 40-55D-32.

Open Space — Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, street and off street parking and other improvements that are designed to be incidental to the natural openness of the land.

Owner, Solar System — the individual or entity that intends to own and operate the solar energy system in accordance with this ordinance.

Parking Area — Land or any part of a building used for the parking of motor vehicles.

Parking Space — An off-street space, open or enclosed and paved or graveled, which is accessible and available at all hours when the building which it serves is in use for the parking of one (1) passenger vehicle or a commercial vehicle with no more than two (2) axles and owned or used by the occupant of the principal building.

Perennial Stream — A surface water body that flows continuously throughout the year in most years and shown on the New Jersey Department of Environmental Protection geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map in the County Soil Surveys.

Person — Any person, individual business entity, partnership, association, corporation, company or organization of any kind.

Personal Services — An establishment primarily engaged in providing services involving the care of a person or his or her personal apparel, such as laundry, including cleaning and pressing services; linen supply, diaper service; beauty shops; hair salon; barbershops; shoe repair; funeral services; steam baths; and health clubs; clothing rental; locker rental; porter service; and domestic services.

Place of Amusement — Any place wherein are located any mechanical amusement devices for the playing of games, commonly known as pinball machines, shooting galleries, mechanical grabbing machines or any game, operation or transaction similar thereto, under whatever name it may be indicated, whether or not a prize is offered and whether mechanical, electrical or electro-mechanical or otherwise operated, including any game of skill or chance, or both, played and operated with or without numbers, symbols or figures.

Planned Residential Development — An area of a minimum contiguous acreage as specified by ordinance to be developed according to a plan as a single entity containing one (1) or more structures with appurtenant common areas to accommodate residential uses and any

other uses incidental to the predominant use as may be permitted by ordinance.

Planned Unit Development — An area of a minimum contiguous acreage as specified by ordinance to be developed as a single entity according to a plan, containing one (1) or more residential clusters or planned unit residential developments and one (1) or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential use to residential uses as shall be specified in this ordinance.

Premises — A building or structure, or a piece or tract of land or real estate, vacant or otherwise.

Pre-existing Towers and Pre-existing Antennas — Means any tower or antenna for which building permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Principal/Primary Use — The predominant use of the premises. Any use operated by the same corporate entity shall not be construed as a separate use.

Private School — An institution of education whose general course work is comparable to the public school system whose curriculum is approved by the New Jersey Department of Education or the New Jersey Department of Higher Education.

Professional Office – lawyers, engineers, architects, real estate, insurance, non-drug prescribing psychologists, psychiatrist, etc

Property Owner — The owner of the property (lot).

Public Areas — Public parks, playgrounds, trails, paths, and other recreation areas; other public open spaces; scenic and historic sites; and sites for schools and other public buildings and structures.

Public Buildings — Any building owned or operated by the Borough of Midland Park, Bergen County, State of New Jersey or the United States, or any of their duly authorized agencies or administrative units, including a school district.

Residential Cluster — An area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.

Residential Density — The number of dwelling units per gross acre of residential land area including streets, easements and open space portions of a development as may be specified by this ordinance.

Restaurant — Food service establishments that allow for patrons to be seated typically in excess of fifteen (15) minutes.

Restaurant, Outdoor Cafe — Shall mean any eating establishment where food and other refreshments are served upon the public right-of-way, namely the sidewalks immediately in front of any restaurant, cafe, cafeteria or place of business where food and/or other refreshments are served, or where permitted on private property pursuant to the Land Use Ordinance. To qualify as an outdoor cafe, the eating establishment must have interior seating. See Ord 4-18.

Restaurant, Quick Service — Take-out with or without limited capacity for seated patrons or stand-up consumption up to fifteen (15) minutes.

Retail Store/Shop — A building or part thereof in which or from which merchandise is furnished directly to the public.

Riparian Zone — The land and vegetation within and directly adjacent to all surface water bodies including, but not limited to lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown on the

New Jersey Department of Environmental Protection's GIS hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys. There is no riparian zone along the Atlantic Ocean nor along any manmade lagoon or oceanfront barrier island, spit or peninsula.

Secondary Use — A use with no direct connection to the principal use such as a franchise or concession.

Shed - An accessory structure used for storage. The structure shall not be habitable and shall not have an exterior staircase to the attic or 2nd floor area.

Sign — Any device, freestanding or attached to a building or structure, or erected, painted, represented or reproduced upon or in (to the extent provided herein) any building or structure, which displays, reproduces or includes any letter, word, name, number, model, insignia, design, device or representation used for one (1) or more of the following purposes: to identify the premises or occupant or owner of the premises; to advertise any trade, business, profession, industry, service, event or other activity; to advertise any product or item; to advertise the sale or rental or use of all or part of any premises, including that upon which it is displayed; to direct vehicular or pedestrian traffic, other than State, County or municipal highway and roadway markers; and shall include any announcement, declaration, demonstration, display, illustration, insignia or any representation used to advertise or intended to advertise or promote the interests of any person. In no event shall the word "sign" be construed to mean any sign in the interior of any structure unless specifically set forth in this chapter. For the purpose of this chapter the word sign does not include the flag, pennant, or insignia of any nation, group of nations, State, City, or other political unit.

Sign, Area of — The maximum projected area of the oblong parallelogram, or other shape, which encloses the sign structure, device or representation. For a freestanding or projected sign, the area of all surfaces used as a sign or for sign purposes shall be included and totaled, except that a sign may have a second opposing face which shall not be counted toward the total sign area. For a freestanding sign, the structure supporting the sign area shall not be included in the calculation.

Single Ownership — Ownership by one (1) person or by two (2) or more persons, whether jointly, as tenants, by the entirety or as tenants in common, of a separate parcel of real property not abutting land in the same ownership.

Solar Energy System — A solar system and all associated equipment, including any base, foundation, structural support, wire, batteries or other components necessary to fully utilize the solar system

Solar Panels — An elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes the flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy or array.

Special Water Resource Protection Area or SWRPA — A three hundred (300) foot area provided on each side of a surface water body designated as a C1 water or tributary to a C1 water that is a perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein and shown on the USGS quadrangle map or in the County Soil Surveys within the associated HUC 14 drainage, pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h).

Story — That portion of a building exclusive of cellars, but inclusive of basements,

included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, Half — That portion of a building situated above a story and having at least two (2) opposite walls meeting a sloping roof and having a headroom of at least five (5) feet, whose area shall not exceed sixty (60%) percent of the area of the floor below.

Street — Any road, avenue, lane or other way commonly used by the public for vehicular movement and determinable from official roads on file in the County Recording Office.

Structure — An object consisting of one (1) or more materials which is constructed, or erected below, upon or above grounds or an object attached to one (1) or more materials which is constructed, or erected below, upon or above ground. This shall not be construed to include any type of mobile vehicle. The term structure shall include the term "building".

Supermarket — A retail establishment primarily selling prepackaged food products and household goods and supplies as part of its primary use, with a gross floor area of more than twenty-five thousand (25,000) square feet. Separate uses within the building shall not exceed ten (10%) percent of the retail floor area.

Surface Water Body(ies) — Any perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein. In addition, any regulated water under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-2.2, or State open waters identified in a Letter of Interpretation issued under the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-3 by the New Jersey Department of Environmental Protection Division of Land Use Regulation shall also be considered surface water bodies.

Threatened or Endangered Species — A species identified pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Endangered Species Act of 1973, 16 U.S.C. §§1531 et seq. or the Endangered Plant Species List, N.J.A.C. 7:5C-5.1, and any subsequent amendments thereto.

Tower — Means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antenna for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.*

Townhouse — A building or structure designed for or occupied by no more than one (1) family and attached to other similar buildings or structures by not more than two (2) party walls extending from the foundation to the roof and providing two (2) direct means of access from the outside. Furthermore, each such dwelling unit shall be provided with cooking, sleeping and sanitary facilities for the use of each family of the townhouse. For purposes of this chapter, a townhouse may include a building or structure in a fee simple, condominium, cooperative or leasehold ownership or any combination thereof.

Trailer — Any vehicle mounted on wheels or on a truck body or chassis, movable either by its own power or by being drawn by another vehicle, which is initially designed or converted to be used for living or sleeping quarters, including mobile homes. The term trailer shall include such vehicles if mounted on temporary or permanent foundations with the wheels removed.

Trout Maintenance Water — A section of water designated as trout maintenance in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at

N.J.A.C. 7:9B.

Trout Production Water — A section of water identified as trout production in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

Use — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

Veterinary Office — An office for animal treatment. Facilities for overnight stay are permitted for treatment use only and not boarding.

Warehouse — A building in which products, goods, materials, or merchandise are stored and including the display and/or sale of wholesale merchandise.

Window — Any opening in the exterior wall or roof of any structure for the purpose of admitting air or light whether or not covered with glass, plastic or other covering.

Window Space — The aggregate square footage of all windows on any given side and any given story of any structure regardless of the angle or angles at which they are set. In computing window space, there shall be included all portions of any door which if part of a wall would constitute a window.

Yard — An open space which lies between the principal or accessory building or buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

Yard, Front — An open unoccupied space extending the full width of the lot between a principal building and the front lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this chapter. The depth of the front yard shall be measured parallel to and at right angles to the front lot line.

Yard, Rear — An open unoccupied space extending across the full width of the lot lying between the rear line of the lot and the nearest line of the principal building. The depth of the rear yard shall be measured parallel to and at right angles to the rear property line.

Yard, Side — An open unoccupied space between the side line of the lot and the nearest line of the principal building extending from the front to the rear yard. The width of the side yard shall be measured parallel to and at right angles to the side line of the lot.

Zoning Certificate — A permit issued by the Zoning Officer which attests that the premises or building complies with all provisions of this chapter.

Zoning Plan or Zoning Chapter — This chapter entitled "Chapter 34, The Zoning Regulations of The Code of The Borough Of Midland Park".

b. Word Usage. The present tense shall include the future; the singular number shall include the plural, and the plural, the singular. The word "shall" is always mandatory. The words "zone" and "district" are the same.

§34-4 R-1 RESIDENTIAL ZONE.

§34-4.1 Use Regulations.

Only the following uses shall be permitted in the R-1 zone:

- a. Single family dwellings.
- b. Accessory uses incidental to a permitted use.
- c. Uses of land and buildings by the Borough for public purposes.
- d. Automobile parking operated in conjunction with permitted uses.
- e. Boarders - not more than two (2) per dwelling unit.
- f. Community Residences for the Developmentally Disabled, as defined in N.J.S.A. 40:55D-66.2 other than residential staff.

- g. Home occupations.
- h. Libraries.
- i. Public buildings of a governmental or cultural nature.

Conditional Uses

- a. Churches and similar Houses of Worship, including parish houses, religious school buildings, parsonages and rectories.

§34-4.2 Individual Dwelling Units.

Individual dwelling units shall be governed by the following regulations:

- a. Successively placed dwellings not in planned residential developments shall have different front elevation designs without repeating any front elevation design within any successive group of four (4) homes.
- b. Lots containing individual dwelling units shall have no more than one (1) curb cut, unless for the provision of a circular driveway.

§34-4.3 Garages and Commercial Vehicles in Residential Districts.

- a. In all residential districts there shall be at least one (1) enclosed garage for each dwelling unit hereafter erected. A garage for not more than three (3) vehicles may be erected on a single lot. Not more than two (2) commercial vehicles with not more than two (2) axles each and each not exceeding an overall length of twenty (20) feet, and an overall height of ten (10) feet shall be permitted on said lot, and if there are two (2) such vehicles, at least one (1) shall be garaged regularly. Only commercial vehicles owned or operated by occupants of the principal residential dwelling located on said lot shall be permitted thereon.
- b. In all residential districts, any garage which is demolished, destroyed or made a part of the dwelling unit shall be required to be replaced with another garage.
- c. Garages shall not have an exterior staircase to the attic or 2nd floor area.

§34-4.4 Home Occupations/Residence-Based Businesses.

- a. *Use Regulations.* Home occupations/residence-based businesses shall be a permitted accessory use provided that such business shall: 1) be operated solely by the primary occupant of the residence and have no more than one (1) employee, assistant or associate unless it is a family member; 2) have no customers or business invitees to the residence; and 3) not have deliveries or cause vehicular traffic to the residence in excess of that normally related to residential use; 4) shall only be permitted to be operated within the principal building; 5) Medical and Veterinarian offices shall NOT be permitted.
- b. *Requirements.* Business shall be performed for pecuniary gain in or directed from one (1) or more residents of that dwelling unit and shall 1) not be inconsistent with the residential character of the dwelling unit and present no outside appearance of business use; 2) require no exterior modifications of a structural nature for operation; 3) exhibit no exterior sign or other indication of a business; 4) use no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference including interference with radio or television reception detectable by neighbors; 5) not involve use, storage, or disposal of any grouping or classification of materials that the Federal Secretary of Transportation or the State or local ordinance designates as hazardous material; and 6) and shall provide on-site parking for all employees, and no on-street parking by such employees shall be permitted.

§34-4.5 Required Conditions.

In the R-1 Residence District the following conditions shall be met:

- a. *Height.* The maximum height of a principal building shall be two and one-half (2 1/2)

stories or thirty-two (32) feet, whichever is the lesser.

b. *Front Yard.* There shall be a minimum front yard of twenty-five (25) feet provided, however, that where existing buildings on the same side of the street, in the same block or within two hundred (200) feet form an established setback line less than 25', new buildings shall conform to such established line, provided no new building may project closer than fifteen (15) feet to the front street property.

c. *Rear Yard.* There shall be a minimum rear yard equal to twenty-five (25) feet.

d. *Side Yards.* There shall be two (2) side yards and no side yard shall be less than twelve (12) feet.

e. *Lot Area.* There shall be a minimum lot area of twelve thousand five hundred (12,500) square feet which shall be measured within one hundred twenty-five (125) feet of the front street property line; provided, however, that the lot width at the street line shall not be less than sixty (60) feet and the lot width at the setback line shall not be less than one hundred (100) feet.

f. *Floor Area.* Every residence shall have a minimum floor area of one thousand (1,000) square feet. Dwellings having more than one (1) story shall have a minimum floor area of seven hundred (700) square feet on the first floor and a minimum floor area of five hundred (500) square feet on the second floor. Maximum one (1) bedroom per 2500 sq feet of lot area.

g. *Building and Improved Lot Coverage.*

1. Total Buildings: shall not exceed thirty (30%) percent of the lot area.

2. Improved Lot: shall not exceed forty five (45%) percent of the lot area.

3. Total footprint of the accessory buildings, garages and sheds shall not exceed 75% of the footprint of the principle building or 840sq ft (ex 24ft x 35ft), whichever is less.

4. Engineering Review shall be required for all improved lot coverage increase of more than 300 sq ft.

h. *Driveways.*

1. Maximum curb cut width shall be twenty (20) feet.

2. Maximum driveway width.

a. Curb cut extending to front lot line: 20'

b. Front lot line extending to front line of building (ie. front yard): 25'

3. Two (2) curb cuts shall only be allowed on lots having a width of one hundred (100) feet or greater provided that there is a minimum of fifty (50) feet between the two (2) curb cuts.

4. In all cases, driveway areas shall be deemed as part of the improved lot coverage.

5. Minimum side yard setback to driveway:

(a) Lots less than fifty (50) feet in width — 2.5 feet.

(b) Lots fifty (50) feet to seventy-five (75) feet in width — 3.75 feet.

(c) Lots greater than seventy-five (75) feet in width — 5 feet.

6. Installations and modifications to driveways shall require:

(a) A permit from the Building Department at a fee as designated by the Borough shall be required whether replacing, modifying or adding to an existing or installing a new driveway.

(b) A drawing subject to the Borough Code Official's reasonable approval shall be required in order to confirm dimensions, placement relative to the lot and type of material for the proposed construction of the driveway.

(c) An assessment by the Borough Code Official as to whether or not any

additional documentation on stormwater runoff calculations and/or soil moving permits are required. The Borough Code Official shall be guided by the provisions of subsection 32-6.10a. of the Site Plan Review Ordinance in determining whether additional information and permits are required.

- (d) A driveway shall be required to provide access to a garage on the property.
- i. *Front Yard Setback Encroachments.*(for houses constructed prior to 2019).
1. A landing or pad not greater than five (5) feet by five (5) feet plus its associated steps may encroach no more than ten (10) feet into the front yard setback without requiring a variance.
 2. Steps, assuming the associated elevated landing or pad to the house conforms to the front yard setback, may encroach no more than ten (10) feet into the front yard setback without requiring a variance.
 3. Roof covering of the elevated or non-elevated landing or pad to the house shall be limited to the front edge of the landing or pad with a maximum width of one (1) foot beyond the width of the pad in either direction.

§34-5 R-2 RESIDENTIAL ZONE

§34-5.1 Use Regulations.

In the R-2 Residence District only the following uses are permitted:

- a. Any use as permitted and regulated in the R-1 Residence District. Any such use shall comply with all required conditions of the R-1 Residence District.
- b. Garden apartments as conditional uses only in compliance with all of the requirements established in this Section 34-5.
- c. The following accessory buildings only restricted to the use of tenants are permitted in connection with garden apartments.
 1. Garages, as herein regulated.
 2. Buildings for the storage of maintenance equipment and supplies.
 3. Bathhouses for use in connection with swimming pools as herein regulated.
- d. Home occupations are accessory uses as provided in subsection 34-4.4.

§34-5.2 Requirements.

Garden apartments shall be governed by the following regulations:

- a. The minimum distance between any two (2) buildings shall not be less than as required under the following formula,

$$HD = \frac{La + Lb + 2 (Ha + Hb)}{8}$$

HD is the required minimum horizontal distance between any wall of building A, at any given level, and any wall of building B, at any given level, or the vertical prolongation of either.

La is the total length of building A.

Lb is the total length of building B.

Ha is the height of building A; which is the average height above the finished grade of the nearest wall facing building B.

Hb is the height of building B; which is the average height above the finished grade of the nearest wall facing building A.

Density. The maximum permitted density may vary in accordance with the following schedule.

*Percentage of Apartment Units Containing
Not More Than One Room in Addition to
Living Room Kitchen, Dining Room or
Dinette, Bathrooms and Closets*

*Maximum Number of
Apartment Units Per Gross
Acre*

80 to 90

15

90 to 100

19

- b. Each building shall contain not more than eight (8) individual dwelling units, and attached buildings shall contain not more than twenty-four (24) dwelling units.
- c. The maximum length of any garden apartment building shall not exceed one hundred sixty (160) feet.
- d. 1. Number of Rooms per Unit. No dwelling unit shall contain more than two (2) rooms in addition to the living room, kitchen, dining room or dinette, bathrooms. In addition, not more than twenty (20%) percent of the total number of units in a development shall contain two (2) such additional rooms.
2. Minimum Floor Area. Each dwelling unit shall have a minimum floor area in accordance with the following schedule:
- | <i>Number of Rooms Exclusive of Living
Room, Dining Room or Dinette, Bathroom
and Closets</i> | <i>Minimum Required Floor Area
per Dwelling Unit (In square
feet)</i> |
|---|---|
| 0 or 1 | 800 |
| 2 | 900 |
3. Each unit shall have at least two (2) exterior exposures with at least one (1) window in each exposure.
4. Floors and ceilings and partitions between apartment units shall be constructed so as to have a minimum airborne sound transmission loss classification of fifty (50) decibels. The Planning Board shall ascertain that reasonable measures are taken in floor and ceiling construction to avoid disturbing levels of impact sound.
5. Basement storage space of five hundred (500) cubic feet shall be provided for each unit.
- e. Where a court is provided, it shall have dimensions the minimum of which shall be forty-five (45) feet. No court shall exceed in depth twice its width.
- f. *Garages and Accessory Buildings.* Garages may be built into the apartment structure or separately constructed as hereinafter provided.
1. Size. Each garage space shall be at least ten (10) feet in width and twenty (20) feet in depth. Each group of attached garage spaces shall have a joint capacity of not more than ten (10) automobiles arranged in a row.
2. Height. The maximum height of any garage or accessory building shall be sixteen (16) feet.
3. Design. Architectural design and materials used in the construction of garages and accessory buildings shall conform to those used in the construction of the principal buildings.
4. Setbacks. Garages and accessory buildings shall be erected beyond the street setback of the principal buildings and shall be at least twenty-five (25) feet from a principal building and at least fifteen (15) feet from another accessory building.

g. *Parking and Traffic Circulation.* Off-street parking facilities shall be provided in accordance with Section 34-16 and, in addition shall meet the following requirements:

1. Location. Off-street parking areas shall be located beyond the street setback for principal buildings. All parking areas shall be at least fifteen (15) feet from a principal building and at least ten (10) feet from a property line.

2. Two (2) access drives leading to a street shall be required unless the Planning Board determines that one (1) such drive is sufficient for the safe ingress and egress of traffic. Access drives shall be at least twenty (20) feet in width and shall be located not closer than ten (10) feet to any building or property line, except that access drives may be located adjacent to a building when providing access to garage space in said building. Access drives shall not enter a street closer than fifty (50) feet to an intersection.

h. *Utilities.*

1. All telephone and electric service lines on the property shall be underground in accordance with the specifications and provisions of the applicable standard terms and conditions incorporated as a part of the public utility's tariff as the same are then on line with the State of New Jersey Board of Regulatory Utility Commissioners.

2. Water supply and sanitary sewerage facilities shall be subject to the approval of all such agencies having jurisdiction.

i. There shall be provided on the site of any garden apartment development an area or areas of not less than one hundred (100) square feet of recreation space for each dwelling unit. In no case shall there be less than one thousand nine hundred (1,900) square feet devoted to joint recreational uses by the residents thereof. Such recreational space shall be located in other than a front yard and shall provide amenities usually associated with either passive and/or active pursuits.

j. Any unenclosed use or area may be required by the Planning Board to be landscaped and provisions, when deemed necessary, shall also be made for landscaping in accordance with the Chapter 32 Site Plan Review.

k. All performance standards established in Section 34-19 herein, and in Chapter XXXII, Site Plan Review shall also be complied with where applicable.

l. Off-street parking and loading shall be subject to Schedule II, Off-Street Parking Requirements and Schedule III, Off-Street Loading Requirements and Section 34-16, Regulations Governing Off-Street Parking and Loading and Chapter XXXII, Site Plan Review.

m. *Miscellaneous.*

1. Television / Satellite antennas shall be limited to one (1) master antenna per building.

2. Air-conditioning units shall not extend more than twelve (12) inches from the exterior wall.

3. Laundry facilities shall be provided in each building. Outside clothes drying is prohibited.

4. There shall be no incinerators on the premises or in the buildings. All trash and garbage shall be stored at all times in air-tight covered containers, which shall be kept in a centrally located, concealed area outside the building.

5. Except for public telephones and laundry machines, there shall be no coin-operated machines.

§34-6 R-3 ZONE - AGE-RESTRICTED MULTI-FAMILY

§34-6.1 Purpose.

The purpose and intent of the R-3 District is to allow for a redevelopment of the site for age-restricted multifamily development, related ancillary activities and open space designed to complement the existing surrounding development pattern.

§34-6.2 Principal Permitted Uses.

The principal permitted uses allowed in the R-3 District are as follows:

- a. Age-restricted, multifamily, housing.
- b. Public buildings of a governmental or cultural nature.
- c. Public utilities.

§34-6.3 Parking in the R-3 District.

Parking areas shall be permitted as a use when the lot is located within 100' of R-3 zoned property with age restricted housing and shall be required to satisfy the following standards:

- a. The maximum improved coverage shall not exceed eighty (80%) percent.
- b. There shall be required a buffer area of ten (10) feet in order to screen the parking area from adjoining residences and roadways.

§34-6.4 Accessory Uses.

The following accessory uses shall be permitted in the R-3 District:

- a. Off-street parking.
- b. Indoor and outdoor recreation.
- c. Office space ancillary to an age-restricted, multifamily development.
- d. Community Center associated with age-restricted, multifamily.
- e. Computer center, card rooms and any other ancillary use generally associated with multifamily.

§34-6.5 Supplementary Regulations Applicable to R-3 District.

- a. A minimum lot area of thirty-four thousand (34,000) square feet shall be required.
Limitation on Number of Uses on Each Lot. There shall not be more than one (1) principal use for each lot.
- b. *Number of Buildings Permitted.* There shall not be more than one (1) principal structure for each lot.
- c. One (1) shade tree, with a minimum diameter of two and one-half (2 1/2) inches measured three (3) feet above the ground, shall be provided for every ten (10) outdoor parking spaces, with a maximum linear distance of one hundred (100) feet between trees in the same parking row. Trees shall be staggered and/or spaced so as not to interfere with driver vision and shall have branches no lower than six (6) feet.

§34-6.6 Area and Bulk Requirements.

The following area and bulk requirements shall apply to all development in the R-3 District:

<i>Regulation</i>	<i>Age- Restricted Multifamily</i>	<i>Accessory Uses</i>
Minimum lot area (acres)	7.0	NA
Minimum front yard setback (ft.)	25	25
Minimum side/rear yard setback (ft.)	25	25
Minimum buffer (ft.)	10	10

<i>Regulation</i>	<i>Age- Restricted Multifamily</i>	<i>Accessory Uses</i>
Minimum open space (o/o)	25	NA
Maximum density (du/ac)	22	NA
Maximum building height (stories/feet)	4/42	2.5 /32
Maximum building coverage (o/o)	40	40

§34-6.7 Low and Moderate Income Requirements.

A minimum of twenty (20%) percent of the residential units constructed in the R-3 Zone must be made available for occupancy to low and moderate income residents age sixty-two (62) years or older. The residents must be income qualified utilizing the income eligibility requirements mandated by the State of New Jersey, Council On Affordable Housing (COAH).

§34-7 B-1 ZONE - BUSINESS DISTRICT.

§34-7.1 Use Regulations.

Only the following principal permitted uses shall be permitted in the B-1 Zone:

- a. *Permitted Uses.*
 - 1. Banks and financial institutions.
 - 2. Business and professional offices.
 - 3. Child care centers pursuant to N.J.S.A. 40:55D-66.6.
 - 4. Medical offices
 - 5. Public buildings of a governmental or cultural nature
 - 6. Retail, trade, and service establishments, excluding automobile sales .
 - 7. Restaurants
 - 8. Personal Services
 - 9. Physical Fitness Establishments
- b. **Conditional Uses.** Permitted only upon compliance with all conditions established in this ordinance. See 34-12 Conditional Uses
 - 1. Houses of Worship
 - 2. Dry-cleaning, pressing and dyeing plants operated in conjunction with retail service counter.
 - 3. Laundries incidental to retail service counter.
 - 4. Motor vehicle service stations.
 - 5. Farmer's Market.
- c. Mixed use shall be permitted, provided that commercial uses shall be confined to the first floor of the structure and residential uses (no more than one bedroom per 2500 sq ft lot area)

shall be confined to the second: except, however, that commercial uses shall be permitted on the first and second floor of the structure where all of the required on-site parking spaces are provided. In all buildings, cellars shall be used only for utilities or storage.

§34-7.2 Vehicular Driveway Connections with Abutting Nonresidential Districts.

Vehicular driveway connections between any use on a lot in the B-1 Zone and an abutting nonresidential district are encouraged and may be permitted by the Planning Board upon its determination that the same may be made without danger to the health and general welfare of the surrounding properties and with due consideration of such factors as congestion in the street, fire, panic, adequate light and air, overcrowding of property or buildings, undue concentration of population and conservation of value of property. (Ord. #13-02 § 7.2)

§34-7.3 Required Conditions.

In the B-1 District, the following conditions shall be met:

- a. *Height.* The maximum height of a principal building shall be two and one-half (2 1/2) stories, or thirty-two (32) feet, whichever is the lesser.
- b. *Front Yard.* There shall be a minimum front yard of twenty-five (25) feet.
- c. *Lot Area.* There shall be a minimum lot area of six thousand (6,000) square feet.
- d. *Building Coverage.* Total building coverage shall not exceed thirty (30%) percent of a lot area.
- e. *Improved Lot Coverage.* Total improved lot coverage shall not exceed seventy-five (75%) percent of the lot area.
- f. *Lot Depth.* There shall be a lot depth of a minimum of one hundred (100) feet.
- g. *Lot Width.* There shall be a minimum lot width of sixty (60) feet.
- h. *Side Yard.* See Schedule I, Zoning District Area, Bulk and Yard Requirements.
- i. *Farmer's Market.* Shall be defined as an open-air location where vendors sell locally grown fruits and vegetables, baked goods, plants and flowers shall be permitted as a conditional use subject to the following standards:
 1. A minimum lot area of two-thirds (2/3) of an acre shall be required.
 2. A minimum of twenty (20) parking spaces for patrons shall be provided.
 3. No vehicle having a weight in excess of fifteen thousand (15,000) lbs. shall be parked on the premises.
 4. The Farmer's Market shall operate seasonally from June 1st to October 31st and on Saturdays only from 9:00 a.m. to 4:00 p.m.
 5. The operator of the Farmer's Market shall submit to the Construction Official a plan illustrating the site of the proposed market that addresses customer parking, vendor parking, vendor staging of materials, on-site vehicular circulation and security. The plan shall also designate the number of vendors who will be selling produce to the public. The Construction Official shall have the authority to refer the matter to the Governing Body for formal approval in its sole discretion. In addition, the Chief of Police shall review the submitted plan as same pertains to vehicular circulation and security considerations.
 6. The use shall be governed by the provisions of Ordinance No. 02-10 entitled, "An Ordinance To Authorize The Issuance Of A Seasonal Agricultural Market License Under Certain Terms and Conditions (Section 4-19) And To Amend Chapter 90 Of The Code Of The Borough Of Midland Park, Fees, To Provide Fees For The Licensing Thereof.

§34-8 B-2 ZONE - PROFESSIONAL.

§34-8.1 Use Regulations.

Only the following uses shall be permitted in the B-2 Zone:

a. *Permitted Uses.*

1. Business and professional offices.
2. Studios for artists, teachers and musicians.
3. Public buildings of a governmental or cultural nature.
4. Institutional uses.
5. Medical offices.
6. Physical fitness establishments.
7. Physical Therapy offices.
8. Accessory uses customarily incident to the above uses.

b. Mixed use shall be permitted, provided that commercial uses shall be confined to the first floor of the structure and residential uses (No more than one bedroom per 2500 sq ft lot area) shall be confined to the second; except, however, that commercial uses shall be permitted on the first and second floor of the structure where all of the required on-site parking spaces are provided. In all buildings, cellars shall be used only for utilities or storage.

§34-8.2 Vehicular Driveway Connections with Any Abutting Nonresidential District.

Vehicular driveway connections between any use on a lot in the B-2 Zone and any abutting nonresidential district is encouraged and may be permitted by the Planning Board upon its determination that the same may be made without danger to the health and general welfare of the surrounding properties and with due consideration of such factors as congestion in the street, fire, panic, adequate light and air, overcrowding of property or buildings, undue concentration of population and conservation of value of property. (Ord. #13-02 § 8.2)

§34-8.3 Required Conditions.

In the B-2 Zone, the following conditions shall be met:

- a. *Lot Area.* There shall be a minimum lot area of twelve thousand five hundred (12,500) square feet.
- b. *Lot Width.* There shall be a minimum lot width of one hundred (100) feet.
- c. *Lot Depth.* There shall be a minimum lot depth of one hundred twenty-five (125) feet.
- d. *Building Height - Stories.* The maximum height of a principal building shall not exceed three (3) stories.
- e. *Building Height - Feet.* The maximum height of a principal building shall not exceed thirty-six (36) feet.
- f. *Building Coverage.* Total building coverage shall not exceed thirty (30%) percent of the lot area.
- g. *Improved Lot Coverage.* Total improved lot coverage shall not exceed forty (40%) percent of the lot area.
- h. *Front Yard.* There shall be a minimum front yard of thirty (30) feet.
- i. *Side Yard.* See Schedule I, Zoning District Area, Bulk and Yard Requirements.

§34-9 B-3 ZONE - BUSINESS-RETAIL/OFFICE.

§34-9.1 Permitted Uses

In the Business Retail/Office District only the following uses are permitted, provided that they do not exceed the limitations imposed by the standards hereinafter set forth in this section.

- a. Retail and service commercial uses, but excluding automobile sales.

- b. Business and professional offices.
- c. Medical offices.
- d. Banks and financial institutions.
- e. Municipal facilities.
- f. Child care centers pursuant to N.J.S.A. 40:55D-66.6.
- g. Supermarkets.
- h. Restaurants.
- i. Personal services.
- j. Physical therapy.
- k. Physical fitness establishments.
- l. Mixed uses.

§34-9.2 Required Conditions.

a. In the Business Retail/Office District the following conditions shall apply to the designated class of uses:

<i>Requirements</i>	<i>Retail</i>	<i>Office</i>
Minimum lot area (sq. ft.)	10,000	25,000
Minimum lot width (ft.)	100	200
Minimum lot depth (ft.)	100	125
Minimum building height (ft.)	36	36
Maximum building height (stories)	2.5	2.5
Maximum lot coverage (%)	30	30
Maximum improved Lot Cov. (%)	75	75
Minimum Front Yard (ft.)	25	25
Minimum Side Yard (ft.)	12	12

Minimum Rear Yard (ft.) 25 25

- b. No side yard is required adjacent to other property in the B-3 Zoning District. If a side yard is provided, the minimum shall be twelve (12) feet.
- c. For lots adjacent to any residential zoning district, a side yard of a minimum of the greater of twenty (20) feet or the height of the building on the non-residential lot shall be required.

§34-9.3 Accessory Uses.

The following accessory uses shall be permitted in the B-3 District:

- a. Off-street parking and loading subject to the requirements of Section 34-16 of this chapter.
- b. Signs subject to the requirements of Section 34-17.
- c. Fences and walls subject to the requirements of Section 34-13.

§34-9.4 Intentionally Omitted.

§34-9.5 Supermarkets.

Supermarkets in the B-3 District shall be governed by the following conditions:

- a. Minimum lot area of three (3) acres;
- b. Supermarkets shall be located on a lot with frontage on a major arterial road as identified in the Borough Master Plan;
- c. All buffer zone requirements set forth in section 7-15 shall be complied with, provided that the minimum buffer zone shall not be less than fifteen (15) feet along each rear and side

property line which abuts a residentially zoned or developed property, or abuts a public street. Furthermore, a minimum of thirty (30) foot buffer shall separate any loading space from a residentially zoned or developed property. No structure shall be placed in any buffer zone.

d. The number of off-street parking spaces provided shall not be less than the amount set forth in Schedule II, Table of Parking Requirements in this chapter.*

e. Parking spaces shall be minimally nine by eighteen (9 x 18) feet.

f. There shall be one (1) nine by eighteen (9 x 18) foot outdoor shopping cart corral for every fifteen thousand (15,000) square feet of gross floor area of the supermarket.

g. When the business is not in operation, all on-site lighting shall be reduced to an average maintained footcandle intensity of three-tenths (.3) footcandles.

h. All parking areas shall be screened from view from residential areas or streets by non-deciduous landscaping, provided, however, that no screening shall be placed at any location which will interfere with ingress and egress from the site or with the line of sight. Vehicles exiting the site shall be directed by channelization, driveway design, signalization or other appropriate traffic controls so that the traffic flows away from portions or streets containing residential uses.

§34-10 I-1 ZONE - OFFICE/RESEARCH LAB.

§34-10.1 Use Regulations.

Only the following uses shall be permitted in the I-1 Zone:

a. *Permitted Uses.*

1. Business and professional offices.

2. Scientific and research laboratories, including incidental pilot plants for testing of products or materials as accessories to a research laboratory; provided, however, that in no case shall more than twenty-five (25%) percent of the total floor space of any building be devoted to such incidental use.

3. Retail sales and services only if conducted within the confines of the principal building and conducted only for the convenience of employees and visitors of the permitted principal building.

4. Public buildings of a governmental or cultural nature.

5. Institutional uses.

6. Public utilities subject to the procedure set forth in subsection 34-13.8.

7. Accessory uses customarily incident to the above uses.

b. *Required Conditions.* In the I-1 Industrial District the following conditions shall be met:

1. Height of Buildings. No building shall exceed three (3) stories or thirty-six (36) feet in height, whichever is the lesser.

2. Front Yard. There shall be a front yard of not less than fifty (50) feet.

3. Side Yard. Each side yard shall have a minimum width of twenty-five (25) feet.

4. Rear Yard. There shall be a rear yard of not less than fifty (50) feet.

5. Storage. All materials and equipment shall be stored in completely enclosed buildings.

6. Minimum Lot Area. There shall be a minimum lot area of two (2) acres and every lot must have a minimum street frontage of at least two hundred (200) feet.

7. Maximum bulk of buildings. The total floor area of all buildings on a lot shall not exceed thirty percent (30%) of the area of the lot.

In addition, a construction permit or certificate of occupancy shall be issued only when the intended use will comply with the requirements of paragraph c. of this subsection.

§34-11 I-2 ZONE - INDUSTRIAL.

§34-11.1 Use Regulations.

In the I-2 Industrial District only the following uses are permitted, provided that they do not exceed the limitations imposed by the performance standards hereinafter set forth in this section.

- a. Any process of manufacture, fabrication, treatment or conversion of products.
- b. Scientific or research laboratories.
- c. Business and professional offices.
- d. Commercial warehouses, wholesale distribution centers and catering operations.
- e. Retail, trade, and service establishments, excluding automobile sales.
- f. Public garages.
- g. Restaurants.
- h. Physical fitness establishments.
- i. Physical therapy.
- j. Personal Services.
- k. Studios for artists, teachers and musicians.
- l. Mixed Uses.

Conditional Uses

Permitted only upon compliance with all conditions established in this ordinance. See 34-12 Conditional Use

1. Motor Vehicle Service Stations, Motor Vehicle Repair Shop, Autobody Shop.
2. Car wash.
3. Veterinarian offices.
4. Kennels.

§34-11.2 Required Conditions.

In the I-2 Zone, the following conditions shall be met:

- a. *Height of Buildings.* No building shall exceed three (3) stories or thirty-six (36) feet in height, whichever is the lesser.
- b. *Front Yard.* There shall be a minimum front yard of twenty-five (25) feet.
- c. *Side Yard.* There shall be a side yard requirement of a minimum of fifteen (15) feet for each side yard.
- d. *Rear Yard.* There shall be a minimum rear yard of not less than twenty-five (25) feet.
- e. *Building Coverage.* Total building coverage shall not exceed forty (40%) percent of the lot area.
- f. *Improved Lot Coverage.* Total improved lot average shall not exceed eighty (80%) percent of the lot area.

§34-11A ATTACHED SINGLE-FAMILY DWELLING ZONE (ASFD).

§34-11A.1 Purpose of District.

Purpose of this district is to replace inappropriate and conflicting land use arrangements with attached single-family dwellings which are in close proximity to a commercial district located on collector roadways consistent with the findings and conclusions of the Midland Park Master Plan and the current State Development and Redevelopment Plan. (Ord. #03-06)

§34-11A.2 Use Regulations.

Only the following enumerated uses shall be permitted in the Attached Single-Family Dwelling Zone (ASFD):

- a. *Permitted Uses.*
 1. Attached single-family dwellings.
 2. Active and passive recreation areas.
 3. Use of lands and buildings by the Borough for public purposes.
- b. *Accessory Uses.*
 1. Off-street parking facilities, per RSIS requirements including requirements for guest parking per Residential Site Improvement Standards, Table 4.4, footnote 'b.'
 2. Signs.
 3. Fences and retaining walls.
 4. Accessory uses normally incidental to a permitted use in the zone district.

§34-11A.3 Development Standards.

- a. Minimum required lot area twenty thousand (20,000) square feet.
- b. Minimum required frontage upon an improved public right-of-way two hundred (200) feet.
- c. The maximum attached single-family dwelling density shall not exceed twenty (20) units to the acre.
- d. Maximum building height shall not exceed two (2) residential stories with a maximum building height of thirty-eight (38) feet above a single garage level.
- e. The garage level may contain, in addition to parking, utility rooms, storage areas, recreation rooms, closets and bathrooms.
- f. The following setbacks shall apply to all residential buildings:
 - Front Yard: 25 feet to right-of-way line.
 - Side Yard: 15 feet to side property line.
 - Rear Yard: 30 feet to rear property line.
- g. *Number of Buildings.* Multiple principal building shall be permitted on a building lot.
- h. No building shall contain more than six (6) dwelling units.
- i. *Building Fronts.* There shall be a staggered offset of a minimum of four (4) feet for every two (2) dwelling units in a row of units.
- j. *Building Coverage.* Not more than thirty (30%) percent of the lot shall be covered by buildings or structures.
- k. *Total Improved Coverage.* No more than sixty-five (65%) percent of the lot shall be covered by a combination of buildings, accessory structures, parking areas, driveways, sidewalks and other improved surfaces.
- l. *Minimum Open Space.* Not less than thirty-five (35%) percent of the parcel area shall remain as open and pervious space. Such areas shall be appropriately landscaped and include a combination of ornamental trees, foundation plantings, shrubs, bushes and lawn areas.
- m. At-grade patio features are encouraged but shall not encroach to within fifteen (15) feet or a rear or side property line. Building coverage shall be calculated without inclusion of at-grade patios.
- n. All development in the ASFD Zone shall provide on-site dwelling units affordable to low and moderate income households in sufficient numbers to satisfy the "growth share" of low and moderate income housing attributed to such development consistent with the current rules promulgated by the Council on Affordable Housing (COAH).

- o. All affordable housing units shall be affirmatively marketed in accordance with current applicable COAH rules and regulations and at all times be occupied by a certified low or moderate income household.
- p. All affordable housing units shall be deed restricted for a period of years in accordance with current applicable COAH rules and regulations.
- q. All affordable housing units shall at all times comply with applicable COAH uniform affordability controls.
- r. *Parking.* Off-street parking shall be provided in pursuant to the standards contained in the Residential Site Improvement Standards.
- s. *Utility Connections.* All utilities shall be installed underground. Appropriate utility easements shall be established and conveyed to the appropriate provider.
- t. *Signs.* One (1) ground development identification sign not to exceed twenty (20) square feet is permitted. The required setback for any identification sign shall be five (5) feet from front property lines and ten (10) feet from all other property lines. Said sign shall not be higher than six (6) feet above grade. Such sign shall be of a design complementary to the principal buildings and may be illuminated, but not from internal lights. Any identification sign shall include landscape elements that complement and replicate the landscaping associated with the principal buildings.
- u. *Privacy Screens.* Privacy screens or fences between dwelling units may be provided, but in no event shall they exceed a height of six (6) feet.
- v. *Storage Areas.* A minimum of five hundred (500) cubic foot storage area for each dwelling unit shall be provided on site.

§34-11A.4 Conditional Uses in the ASFD Zone.

- a. *Uses.*
 - 1. Apartment units.
 - 2. Retail sales and service uses entirely contained within the confines of a building.
 - 3. Mixed-use buildings.
- b. All conditional uses in the ASFD Zone shall be required to satisfy the following conditional use conditions.
 - 1. Parcel must meet each of the development standards pursuant to subsection 34-11A.3 of this section other than the parking standard. A shared parking arrangement between residential and nonresidential uses is encouraged in order to promote the more efficient utilization of land. The amount of required parking for the non-residential portion of the mixed-use development shall be reduced fifteen (15%) percent from applicable nonresidential parking standard. The amount of parking for the residential portion of the mixed used development shall be in accordance with RSIS.
 - 2. Conditional uses shall be located in a separate building from any principal permitted use. Not more than one (1) building containing conditional uses per development is permitted.
 - 3. Any building containing conditional uses shall have a footprint not to exceed one thousand two hundred (1,200) square feet.
 - 4. A building containing conditional uses shall not exceed two (2) stories or twenty-eight (28) feet.
 - 5. Buildings containing conditional uses shall be permitted in front yards with a required setback of fifteen (15) feet from adjacent street lines and five (5) feet from all other property lines.

6. Conditional uses shall be permitted one (1) wall-mounted sign on each wall surface facing a street, but in no event shall contain more than two (2) wall signs. The maximum width of any such sign shall not exceed twelve (12) linear feet, and the height of any such sign shall not exceed two (2) feet.

7. Buildings containing conditional uses shall maintain separate off-street parking facilities which shall be no closer than five (5) feet to any property line.

§34-12 CONDITIONAL USES.

Where applicable, but not limited to shall be governed by the following regulations:

§34-12.1 Motor Vehicle Service Stations, Motor Vehicle Repair Shop, Autobody Shop

a. The minimum lot size shall be ten thousand (10,000) square feet, and the minimum width along the street shall be one hundred (100) feet.

b. Motor vehicle service station shall not be located within two hundred (200) feet of the following uses: schools, parks and playgrounds, municipal buildings, churches and other houses of worship, hospitals, nursing homes and institutions for the education and welfare of children or adults.

c. Vehicular access to motor vehicle service stations shall not be closer to the intersection of any two (2) street lot lines than fifty (50) feet, nor shall a motor vehicle service station be located within twenty-five (25) feet of any boundary line of any residential zoning district.

d. Automobile repair work shall be performed within a building except for sale of gasoline or oil.

e. No merchandise shall be sold or kept for sale except petroleum products and automobile accessories reasonably necessary for the safe, lawful or convenient operation of motor vehicles.

f. All automobile parts shall be stored within a fully enclosed building.

g. No space may be rented for any motor vehicle or trailer, nor may any motor vehicle or trailer be stored in the front yard. Vehicles left for servicing may not be parked at a motor vehicle service station for more than thirty (30) days from the date vehicle was brought to the station. Vehicles shall be parked only in such location as is shown on an approved site plan.

h. A wall, fence or suitable evergreen hedge row or screen planting at least five (5) feet in height shall be constructed and maintained between the gasoline service station and any abutting lot. The design of such wall, fence or planting shall be subject to the approval of the Planning Board, which may also require additional planting to screen the service station from adjoining lots.

i. Buffer zone and landscaping requirements provided in Section 34-15 herein shall also be complied with.

j. No motor vehicle or trailer may be used on these premises for signage or storage.

§34-12.2 Community Residences for Developmentally Disabled and Community Shelters for Victims of Domestic Violence.

Community residences for developmentally disabled and community shelters for victims of domestic violence shall be a permitted use in all residential districts, subject to the following:

a. A community residence or shelter shall comply fully with all zoning and health regulations applicable to single-family residences in the zone district in which it is located.

b. A community residence or shelter may be occupied by no more than the number of residents allowed as per N.J.S.A. 40:55D-66.1 excluding residential staff.

§34-12.3 Seasonal Outdoor Cafe Restaurants.

- a. Establishments serving food or drink for consumption on the premises but outside enclosed building are permitted according to outdoor cafe ordinance (4-18).
- b. Outside service counters are prohibited.
- c. Seating shall be limited to the max of 24 seats or 50% of the indoor seating.
- d. No additional parking shall be required for seasonal.
- e. Nothing contained in this subsection shall be deemed to prevent or limit the sale of food or refreshments or refreshment stands at authorized fairs, carnivals, public events and the like.

§34-12.4 Dry Cleaning and Laundry Establishments.

- a. Outlets and pickup for laundries, cleaning and dry cleaning establishments and self-service automatic laundry and dry cleaning establishments shall be prohibited from storing strong flammable solvents, except for the incidental removal of spots, and as provided in the latest edition of the New Jersey Fire Prevention Code as modified and adopted by the Borough.
- b. Self-service automatic laundry and dry cleaning establishments shall not be permitted to contain more than twenty (20) machines for washing, cleaning and drying. This shall not apply to a room or rooms containing laundry machines in a residential structure used for the convenience of the occupants, whether or not coin operated.

§34-12.5 Intentionally Omitted.

§34-12.6 Intentionally Omitted.

§34-12.7 Houses of Worship

A house of worship shall be permitted in all zone districts of the Borough as a conditional use, subject to the following requirements, which shall take precedence over any conflicting regulation for the zone district in which the use is located:

- A.** Height. No building shall exceed a maximum height as regulated for the zone district in which it is situated. A steeple is not to be included in determining the maximum height of the building.
- B.** Front and rear yard. There shall be front and rear yards having depths not less than those which are regulated for the zone district in which they are situated.
- C.** Side yard. There shall be two side yards, and no side yard shall be less than which is required for the zone in which it is located, except the R-1 and R-2 Residence Districts, where the minimum width shall not be less than 25 feet.
- D.** Minimum lot area. There shall be a minimum lot area of two acres, having a minimum frontage of 200 feet on an improved street.
- E.** Maximum building coverage. The total gross ground floor area of all buildings shall not exceed 25% of the lot.
- F.** Buffering. A buffer strip of ten feet minimum width shall be provided where the lot abuts a nonresidential district and a minimum of 15 feet where it abuts residential property. This buffer strip shall provide a year-round visual screen consisting of native vegetation in order to minimize adverse impacts on the adjacent property or from adjacent areas. Buffer strips may also be used for stormwater management by the disconnection of impervious surfaces and treating runoff from these impervious surfaces.
- G.** Off-street parking. Off-street parking requirements shall comply with the parking requirements as set forth in Schedule II, Off-Street Parking Requirements.
- H.** Parking lot landscaping. At least 5% of the interior parking area shall be landscaped with native vegetation and one tree for each 10 spaces shall be installed. No parking spaces shall be

located in the front yard area, and the parking lot street frontage shall be adequately screened.

I. Walkways. Adequate walkways shall be provided within the parking area and adjacent to buildings for the safe travel and discharge and pickup of vehicle passengers.

§34-12.8 Farmers Market

1. A minimum lot area of two-thirds (2/3) of an acre shall be required.
2. A minimum of twenty (20) parking spaces for patrons shall be provided.
3. No vehicle having a weight in excess of fifteen thousand (15,000) lbs. shall be parked on the premises.
4. The Farmer's Market shall operate seasonally from June 1st to October 31st and on Saturdays only from 9:00 a.m. to 4:00 p.m.
5. The operator of the Farmer's Market shall submit to the Construction Official a plan illustrating the site of the proposed market that addresses customer parking, vendor parking, vendor staging of materials, on-site vehicular circulation and security. The plan shall also designate the number of vendors who will be selling produce to the public. The Construction Official shall have the authority to refer the matter to the Governing Body for formal approval in its sole discretion. In addition, the Chief of Police shall review the submitted plan as same pertains to vehicular circulation and security considerations.
6. The use shall be governed by the provisions of Ordinance No. 02-10 entitled, "An Ordinance To Authorize The Issuance Of A Seasonal Agricultural Market License Under Certain Terms and Conditions (Section 4-19) And To Amend Chapter 90 Of The Code Of The Borough Of Midland Park, *Fees*, To Provide Fees For The Licensing Thereof.

§34-12.9 Mixed Uses

- a. Commercial uses shall be confined to the first floor of the structure when mixed with residential uses.
- b. Residential uses (No more than one bedroom per 2500 sqft of lot area) shall be confined to the upper floors.
- c. Commercial uses shall be permitted on any floor of the structure where all of the required on-site parking spaces are provided.
- d. Cellars / basements shall be used only for utilities or storage.

§34-12.10 Car Wash

- a. The minimum lot size shall be ten thousand (10,000) square feet, and the minimum width along the street shall be one hundred (100) feet. b. Car Wash shall not be located within two hundred (200) feet of the following uses: schools, parks and playgrounds, municipal buildings, churches and other houses of worship, hospitals, nursing homes and institutions for the education and welfare of children or adults.
- b. No merchandise shall be sold or kept for sale except automobile accessories reasonably necessary for the cleaning of motor vehicles.
- c. A wall, fence or suitable evergreen hedge row or screen planting at least five (5) feet in height shall be constructed and maintained between the gasoline service station and any abutting lot. The design of such wall, fence or planting shall be subject to the approval of the Planning Board, which may also require additional planting to screen the car wash from adjoining lots.

§34-12.11 Veterinarian Offices

- a. Located in excess of 200 feet from a residential use.
- b. No boarding except for medical treatment
- c. Outdoor service or exercise areas for no more than 1 animal at a time.

§34-12.12 Kennels

- a. Located in excess of 500 feet from a residential use.
- b. Outdoor exercise areas for no more than 5 animals at a time.
- c. All boarding must be contained within the confines of the buildings.
- d. Parking requirements 1 space per 3 animal spaces
- e. A wall, fence or suitable evergreen hedge row or screen planting at least five (5) feet in height shall be constructed and maintained between the gasoline service station and any abutting lot. The design of such wall, fence or planting shall be subject to the approval of the Planning Board, which may also require additional planting to screen any outdoor areas from adjoining lots.

§34-13 CERTAIN USES IN ALL ZONES.

§34-13.1 Accessory Buildings and Structures.

Accessory buildings and structures shall be governed by the following regulations:

- a. Accessory buildings and structures in all residential zoning may be erected in any side yard or rear yard provided that:
 1. No such accessory building or structure shall exceed twelve (12) feet in height, except for a private garage which shall not exceed eighteen (18) feet.
 2. No accessory building or structure shall be closer to any lot line than five (5) feet.
 3. The aggregate of all accessory buildings and structures shall not occupy more than thirty (30%) percent of the area of the side or rear yard in which said accessory building or structure is located.
 4. In no event, within the front yard, shall any accessory building or structure, which is not ornamental in nature, be located between the principal building and the street right-of-way.
 5. No portion of an accessory building or structure shall be used for living quarters, home occupations/residence-based businesses, temporary or permanent except storage.
 6. No accessory building shall be located closer than ten (10) feet to the principal dwelling or another accessory building.
 7. No accessory building shall have a height that exceeds the height of the principle building.
- b. In all nonresidential zoning districts, accessory buildings and structures which are not attached to a principal building or structure may be erected in any side yard or rear yard provided that:
 1. No such accessory building or structure shall be located closer than fifteen (15) feet to any lot line. This shall not apply to retaining walls and fences, provided these do not exceed six (6) feet in height.
 2. The aggregate of all such accessory buildings or structures shall not occupy more than twenty-five (25%) percent of the side yard or rear yard in which said accessory building or structure is located.
 3. No accessory building or structure shall be located closer to the street right-of-way line than the required front yard setback of the principal building. In no event, within the front yard, shall any accessory building or structure, except of an ornamental nature, be located between the principal building and the street right-of-way.
 4. No portion of an accessory building or structure shall be used for living quarters, temporary or permanent.
 5. No accessory building shall be located closer than twelve (12) feet to a principal building.
 6. Except as otherwise specifically provided, accessory buildings and structures which are attached to the principal building and are within a nonresidential zoning district shall

comply in all respects with the requirements of this chapter governing the principal building.

§34-13.2 Fences.

a. Fences in all residential zoning districts shall be governed by the following regulations:

1. Fences within a radius of twenty-five (25) feet from the corner of an intersection of any two (2) or more roadways shall not exceed two and one-half (2 1/2) feet in height above the curb level. The open area of the fence shall be a minimum of fifty percent (50%).

2. Except on corner lots, fences between the front property line and the front building line shall not exceed four (4) feet in height above ground level, where the grade shall not be changed more than twelve (12) inches from existing grade. The open area of the fence shall be a minimum of fifty percent (50%).

3. Fences from the front building line to the rear property line and along the rear property line shall not exceed five (5) feet in height above ground level, where the grade shall not be changed more than twelve (12) inches from existing grade.

4. Fences on corner lots shall not exceed four (4) feet in height and not impair traffic line-of-sight, except for fences along the rear lot line which shall not exceed five (5) feet in height, where the grade shall not be changed more than twelve (12) inches from existing grade. The open area of the fence in both front yards shall be a minimum of fifty percent (50%).

5. The finished side of all fences shall face outward from the property.

6. Application for such fences shall be made in writing to the Construction Official. The Construction Official shall deliver a copy of such application to the Zoning Officer. The application shall set forth the following information:

(a) Owner and address of premises where fence is to be erected, including property survey.

(b) Description and specification of the fence, including size, height, dimensions, material and size and percentage of openings.

(c) Sketch or plan of fence.

7. The Zoning Officer may approve the construction of such fence, if it complies with the terms hereof, and provided it is set back a reasonable distance from the property line so as to permit its erection and maintenance without trespassing on property of other persons, provided it does not unreasonably obstruct the enjoyment of light and air to the owners of adjoining property, and provided further it does not endanger the safety of persons lawfully using public streets.

8. A permit fee and an inspection fee as established by ordinance shall be paid and shall accompany the application.

9. If a property is abutting another property of a different zone, then the maximum fence height allowed shall be the greater of either zone for that portion of the property which abuts the property with a different zone.

b. Fences in all nonresidential zoning districts are governed by the following regulations:

1. Fences or other approved buffers are required for all properties in all nonresidential zoning districts where such properties abut any residential zoning district boundary line or residential use.

2. All fences in nonresidential zoning districts are subject to site plan approval and shall be subject to all requirements applicable to the zoning district, as well as the provisions governing buffer zones as set forth in Section 34-15.

3. The maximum allowable fence height in the B-1, B-2 and B-3 Districts shall be six (6) feet, and in the I-1 and I-2 Districts shall be eight (8) feet. If a property is abutting another

property of a different zone, then the maximum fence height allowed shall be the greater of either zone for that portion of the property which abuts the property with a different zone.

§34-13.3 Outside Storage Areas.

Outside storage areas shall be governed by the following regulations:

a. Flammable and explosive liquids, solids or gases shall be stored in appropriate containers as regulated in the Borough's Fire Prevention Code. Such materials shall not be permitted for outdoor storage in residential zoning districts and shall not be stored on lots abutting residential zoning districts.

b. No material or wastes which might cause fumes or dust or which might constitute a fire hazard or which may be edible by or otherwise attractive to animals or insects shall be stored outdoors unless in closed containers.

c. All outdoor storage facilities shall be enclosed by a fence or wall adequate to buffer and/or screen such facilities and the contents thereof from adjacent property. Where the storage facility abuts a residential use, a landscaped buffer shall be provided in accordance with Section 34-15.

d. In the I-1 and I-2 Zones, the following are permitted:

1. The storage and/or sale of landscape products, related landscape products and related landscape merchandise at nursery stands.

2. The sale of gasoline and related automobile engine fluids at motor vehicle service stations. The requirements of subsection 34-12.1 shall also apply.

3. Sales of goods by nonprofit and/or philanthropic organizations subject to issuance of a special permit by the Borough Clerk.

e. Notwithstanding the foregoing provisions, the Planning Board may authorize the outdoor sale and display of special seasonal products not normally sold throughout the year and not normally stored in the building of a particular business subject to the following limitations:

1. Said display or sale shall be limited to sixty (60) days in any year for any one (1) business.

2. Said display is not located in any parking area or on any public sidewalk nor so located as to interfere with pedestrians or vehicular movement. The foregoing provision shall not be deemed to permit junk yards or the outdoor storage of used or abandoned articles or equipment.

f. In the B-1, B-2, B-3 and I-1 and I-2 Zones, the following is permitted:

1. Sidewalk sales if sponsored by the Chamber of Commerce or other nonprofit associations.

§34-13.4 Essential Services.

Essential services shall be governed by the following regulations:

a. Enclosed or permanent structures providing public utility services including the following uses, electric substations, transformers, switches and auxiliary distribution equipment, water pumping and distribution stations and similar stations and equipment, located in any residential zoning districts shall be subject to the following regulations:

1. The locations, design and operation of such facilities may not adversely affect the character of the surrounding residential or nonresidential neighborhood.

2. Adequate fences and other safety devices and precautions shall be provided, and shall be buffered and landscaped in accordance with Section 34-15.

b. Open, unenclosed uses shall be limited to the erection, construction, alteration or maintenance, by public utilities or municipal, State or other governmental agencies, of

underground or overhead electrical, gas, water transmission or distribution systems or collection, communication, supply or disposal systems. Such systems may include poles, wires, mains, conduits, drains, sewers, pipes, cables, alarms, signals, hydrants and other similar equipment and auxiliary supplies in connection therewith reasonably necessary for the delivery and supply of adequate services by such public utilities and governmental agencies. No buildings are permitted.

§34-13.5 Trailers, Mobile Homes, Boats, Campers and Wheel-Based Vehicles.

In all districts, noncommercial trailers, mobile homes, boats, campers, aircraft and similar portable or wheel-based objects must be completely garaged or otherwise stored within a building at all times, except that one (1) such vehicle or object may be stored outside the confines of a building subject to the following conditions:

- a. Said vehicle or object is registered to or leased by the occupant of the premises.
- b. The area devoted to storage of the vehicle or object is located in the side or rear yard only.
- c. The length of said vehicle or object does not exceed thirty two (32) feet.
- d. Said object is not located closer to the property line than the greater of five (5) feet or the height of the vehicle or object.
- e. Said object is screened from view from any adjoining property.
- f. No trailer, mobile home, boat, camper or other vehicle shall be used as a residence or signage.

§34-13.6 Nuisances.

a. In all business zones, no noise-making devices such as phonographs, loudspeakers, amplifiers, radios, television sets or similar devices shall be used or so situated so as to be heard beyond the limits of the property. A public address system is permitted in a shopping center in the B-1 and B-3 District if operated by the management and not in the individual stores, and provided that no commercial announcement or advertisements shall be used in connection therewith, and provided that the sound is restricted to the immediate area of the buildings and is not audible in any residential districts.

b. In all residential and business districts R-1, R-2, R-3, B-1, B-2 and B-3, no person shall permit or cause the loading or unloading of any goods, wares or merchandise of any kind whatsoever from or upon any truck or vehicle to be parked for the purpose of loading or unloading during the hours between 10:00 p.m. and 6:00 a.m., Monday through Friday, and between 10:00 p.m. Saturday through 6:00 a.m. Monday, with the following exceptions:

1. Where any loading or unloading shall not require a vehicle to be parked in excess of five (5) minutes.

2. Vehicles requiring freezer compressors or engine operation shall not operate such equipment for periods in excess of three (3) hours per day, such periods to be between the hours specified above.

3. Where the Planning Board or Board of Adjustment has, prior hereto or hereafter, in particular cases effecting particular property, imposed greater restrictions than imposed herein, the greater restriction shall prevail.

c. *Lighting : see Design standards 32-6.5.*

§34-13.7 Soil Movement.

a. Unless a soil movement permit is first obtained, no excavation shall be made in any district for the purpose of removing soil, sand, gravel, rock or other earthen material, nor shall

any soil, gravel, rock or other earthen substance be placed on any lot provided that this regulation shall not apply to:

1. Excavations for basements or structures to be erected on the land forthwith;
 2. Grading or landscaping incidental to the development of the land as shown on a site plan approved pursuant to Chapter XXXII, Site Plan Review.
 3. Work performed by or under contract with the Borough.
 4. Work which does not require site plan approval, provided that the Borough Engineer determines that no adverse impact on drainage will result from the work and provided further that no soil from off-site sources is placed on the lot.
 5. Installation of crushed stone for the purpose of construction or repair of driveways serving one- or two-family residential dwellings or repair of driveway and parking areas shown on existing approved site plans.
 6. Any movement or excavation of soil in an amount less than fifty (50) cubic yards.
- b. Applications for soil movement permits shall be made to the Planning Board; provided that if the soil movement involves an application for development within the jurisdiction of the Board of Adjustment, the application may be made to the Board of Adjustment.
- c. 1. Applications for soil movement permits shall include a reasonable accurate drawing of the lot or lots to be affected by the proposed movement. The application shall indicate the proposed quantity of soil to be moved and shall also contain the following information and shall be certified as to accuracy by a licensed engineer:
- (a) Existing and proposed contour lines at appropriate intervals.
 - (b) A description of the existing natural growth and any topographic or geologic features which may characterize the affected property.
 - (c) Natural drainage features.
 - (d) The location of any existing or proposed structures on the affected property.
 - (e) A detailed statement of the method or process to be employed for the movement and the proposed time period.
 - (f) Such additional information as reasonably may be required by the Borough Engineer or approving Board in order to carry out the intent of this chapter.
 - (g) Such fee as may be established by Chapter XXXII, Land Use Procedures of the Borough.
2. Particular consideration shall be given to the following factors:
- (a) Soil erosion by water and wind.
 - (b) Drainage.
 - (c) Soil fertility.
 - (d) Lateral support of slopes and grades of abutting streets and lands.
 - (e) Land values and uses.
 - (f) Such other factors as may bear upon or relate to the orderly and harmonious physical development of the Borough.
3. Additional Requirements. The approving board shall not recommend and no soil movement permit shall be granted unless there is a finding that adequate provision is made for the following:
- (a) There is appropriate provision for safety, including appropriate access points for the affected area.
 - (b) The test results have been delivered to the Borough Engineer.
 - (c) The Borough Engineer notifies the approving Board that the soil to be placed

contains no hazardous substances as that term is defined in the Environmental Clean-Up Responsibility Act, N.J.S.A. 13:1K-6 et seq.

(d) Adequate provision shall be made to prevent any surface waters from damaging the surface of any excavation or the sloping surface of a cut or fill and otherwise adequate provisions have been made for surface and subsurface drainage.

(e) The soil movement shall not be made so close to a property line as to damage or endanger any adjoining property.

(f) Grades and elevations of adjoining streets and lands shall not be adversely affected, and such other factors as may relate to appropriate physical development of the Borough and the Master Plan shall be considered and provided for.

(g) Soil movement will not extend over an unreasonable period of time, and a prerequisite to the issuance of a permit for such solid movement shall be the filing with the Borough of an appropriate surety bond for the benefit of the Borough and any person suffering loss or injury by reason of any violation of applicable laws, ordinances or the conditions imposed in connection with the granting of such a soil movement.

§34-13.8 Public Utilities.

a. Public utilities buildings and facilities may be located in any business or industrial district as a conditional use. However, before a construction permit or certificate of occupancy shall be issued, application shall be made to the appropriate Board, which after a hearing may grant such permit or certificate if in the Board's judgment it will not be detrimental to the health, safety and general welfare of the community and is reasonably necessary for the convenience of the community. In granting such permit, the Board may require such conditions as it deems appropriate for the proper development of the property and protection to the adjacent properties and shall ascertain that all of the following requirements are met:

1. All buildings and uses shall conform to the height and yard requirements of the zone district.

2. Adequate provision shall be made for off-street parking in accordance with Section 34-16.

b. The provisions of this section shall not apply to utilities such as telephone, gas, water, sewer or electric distribution lines and similar facilities necessary to the public health, safety and general welfare of the municipality, which facilities are permitted in all zones subject to the approval of the Borough.

§34-13.9 Portable On Demand Storage Units (PODS).

a. *Location.*

1. A single unit shall be permitted and may not be located in a front yard, except for the driveway area.

2. The location and placement must comply with the side and rear yard requirements applicable to an accessory building and structure pursuant to subsection 34-13.1, except for a unit located within the driveway area.

b. *Duration.*

1. An initial permit shall be issued for up to thirty (30) days.

2. A permit may be renewed two (2) times for extensions of fifteen (15) days each.

3. An extension beyond the permitted time frame may be allowed by utilizing the same procedure for the issuance of a zoning certificate by the Planning Board.

§34-13.10 Solar Panels.

a. *Purpose.*

The purpose of this section is to permit solar energy systems as an accessory use when certain standards are met and to provide an opportunity for and promote the effective and efficient use of solar energy systems while minimizing the potential negative impacts that such systems may create on surrounding properties. It is the intent that the system will be to provide energy for the principal use of the property whereon said system is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a solar energy system designed to meet the energy needs of the principal use. (Ord. No. 07-2016)

b. *Standards.*

1. Solar energy systems are permitted as an accessory use on the same lot as the principal use in all zone districts, subject to the provisions herein. Solar energy systems shall not be permitted as a principal use in any zone. The main purpose of such systems shall be to generate energy to satisfy all or a portion of the energy requirements associated with the onsite dwelling(s) or business(es), rather than for sale back into the electrical grid system or for the power supply of any other property. This provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a solar energy system that is designed to meet the energy needs of the principal use.

2. Solar panels shall be permitted as a rooftop installation in any zoning district. The solar panels shall not exceed a height of eight (8) inches from at any location on the rooftop in a pitched roof installation. For any flat roof installation the roof top installation panels shall not exceed three (3) feet in height from the rooftop in the I-1 and 1-2 Zones and two (2) feet in all other Zones. In no event shall the placement of the solar panels result in a total height, including building and panels greater than what is permitted for the principal building or accessory structure in the zoning district in which the property is located.

3. Solar panels shall be permitted as ground arrays only in the I-1 and 1-2 Zones in accordance with the following:

(a) All ground arrays shall conform to the Minimum Yard Requirements for the principal structure for the Zone as established by Schedule I of this Zoning Ordinance.

(b) Ground arrays shall not be permitted in a front or side yard.]

(c) Ground arrays shall not exceed seven (7) feet in height.

(d) Ground arrays shall not exceed fifty (50%) percent of the principal building floor area. Measurement of the area of the ground array shall be from the outside edges of the ground array and shall include the area between the solar panels.

(e) Ground arrays shall be located so that any glare is directed away from an adjoining property.

(f) Ground arrays shall be a minimum of fifteen (15) feet from any building or structure.

(g) A buffer shall be installed for all ground arrays, which buffer shall consist of a solid or tightly woven fence or evergreen plantings at least six (6) feet in height.

4. A solar energy system installed on a nonconforming structure or on a site containing a non-conforming structure or use shall be considered an expansion of the nonconforming structure or use.

5. In residential zones and in other zones where the use of the property is residential, all accessory equipment, including any ground-mounted mechanical equipment associated with

and necessary for operation, including an enclosure for batteries and storage cells, but not including Solar Panels, shall be screened so as not be visible from the street. In all other zones, all such accessory equipment shall be enclosed with a six (6) foot high fence or evergreen plantings. A separate building for the accessory equipment is permitted as an accessory structure, which structure shall be subject to the zoning requirements related to accessory structures and may not exceed one hundred forty (140) square feet or more than eight (8) feet in height.

d. *General Provisions.*

1. The installation of a solar energy system is subject to local electric public utility requirements for interconnection to the electrical distribution system. All interconnections shall comply with the applicable regulations established by the agency having jurisdiction.

2. All new electrical transmission lines associated with the installation of a solar energy system shall be located underground, unless the local electric public utility requires they be installed on existing utility poles.

3. Solar energy systems installed on, within or above a stormwater management facility, parking lot, sign structure or any other type of freestanding structure not specifically considered a roof by the Construction Official shall be considered a ground-mounted system.

4. The design of solar energy systems shall, to the maximum extent practicable, use materials, colors, textures, shades, screening and landscaping that will blend into the natural setting and existing environment.

5. Solar energy systems shall not be used for displaying any advertising. Reasonable identification of the manufacturer and/or operator of the system is permitted using text that does not exceed a height of two inches. Hazard and/or warning signs pertinent to the electrical nature of the equipment shall also be permitted.

6. An external disconnect switch, which is clearly identified, unobstructed and accessible, shall be provided in accordance with NEC requirements and any other local or state law, regulation code or ordinance that may be applicable.

7. Signage identifying the use of solar panels shall be posted at a location approved by the Fire Prevention Official and as may be required by other local or state law, regulation, code or ordinance. The signage shall clearly state the name, address and telephone number of the vendor authorized to deactivate the solar energy system in the case of an emergency and NEC requirements and shall also include any other information that is required by any local or state law, regulation, code or ordinance. The signage shall be a size and design approved by the Fire Prevention Official.

8. In addition to the required signage, owners or property owners shall provide the Borough Fire Official with a map illustrating the location of the disconnect switch, as well as any information regarding the vendor authorized to deactivate the Solar Panel.

9. Marking is required on all interior and exterior direct conduit, raceway, enclosures, cable assemblies and junction boxes to alert the Fire Service to avoid cutting them.

10. The installation of a Solar Energy System is subject to all the requirements of all electrical companies providing electric services within the Borough of Midland Park

11. Solar energy systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems at N.J.A.C. 14:4-9.m. Standards for and regulations of solar energy systems.

12. The structural design shall be signed and sealed by a professional engineer, licensed in the State of New Jersey, certifying that the structural design complies with all of the

standards set forth for safety and stability in all applicable codes then in effect in the State of New Jersey and all sections referred to hereinabove.

e. *Installation Requirements.*

1. The design of the solar energy system shall conform to all applicable industry standards including the New Jersey Uniform Construction Code, the National Electric Code and the Borough of Midland Park Building Code and Zoning Regulations. The applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certified organization and any such design shall be certified by an Engineer licensed in the State of New Jersey. The manufacturer specifications shall be submitted as part of the application. Such design shall include sufficient information to establish that the system is designed solely for the energy needs and consumption of the residential or commercial building.

2. All solar panels installed on a pitched roof shall be installed at least three (3) feet from the roof edges, and three (3) feet from the ridge of the roof. There shall also be three (3) feet access to all mechanical units and skylights.

3. Subject to the other provisions of subsection 34-13.10e, commercial rooftop arrays shall be installed in sections no greater than seventy-five (75) feet by seventy five (75) feet in distance in either axis with a four (4) foot pathway between sections. There shall be a minimum four (4) foot pathway on center access of building in both directions. A four (4) foot access to skylights, roof hatches, and fire standpipes shall be provided to the perimeter wall.

4. No solar panel or other part of the solar energy system shall be installed in front of or otherwise interfere with an egress window (as defined in the International Building Code, New Jersey Edition and the International Residential Code).

f. *Abandonment.*

1. A solar energy system that is out-of-service for a continuous twelve (12) month period will be deemed to have been abandoned.

2. The Construction Official may issue a Notice of Abandonment to the solar system owner and to the property owner for a solar energy system that is deemed to have been abandoned. The notice shall be sent return receipt requested.

3. The solar system owner and/or the property owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from notice receipt date.

4. If the solar system owner or the property owner provides information that demonstrated the solar energy system has not been abandoned, the Construction Official shall withdraw the Notice of Abandonment and notify the solar system owner and the property owner that the notice has been withdrawn.

5. If the Construction Official or the Borough Administrator determines that the solar energy system has been abandoned, the solar system owner or the property owner shall remove the facility in its entirety at the solar system owner's and/or property owner's sole expense within six (6) months after the receipt of the Notice of Abandonment.

6. When a solar system owner has been notified to remove the solar system and has not done so within six (6) months after receiving said notice, then the Construction Official may remove such system and place a lien upon the property for the cost of the removal. If removed by the solar system owner, a demolition permit shall be obtained and the facility shall be removed. Upon removal, the site shall be cleaned, restored and vegetated to blend with the existing surrounding vegetation at the time of abandonment.

g. *Approval Requirements.*

1. The Construction Official is authorized to issue a building permit for the

installation of any roof mounted solar energy system in any zone if such Solar energy system conforms to all of the requirements herein. Notwithstanding, in the event that the installation includes any ground array, structure or any equipment that is not located within the existing building structure or if the installation does not meet all of the requirements of this Ordinance, the applicant must submit an application for development to the Planning Board for site plan approval. Any deviation from the requirements of this section shall require a variance. The applicant shall comply with all of the requirements of the New Jersey Municipal Land Use Law and the Ordinances of the Borough of Midland Park with respect to a hearing before the Planning Board or Board of Adjustment on said application, and shall comply with the remaining requirements of this Section 7. Any application for site plan approval shall include all of the items and information required by the site plan ordinance. In addition, the applicant shall include design drawings of the solar energy system including the information required by subsections 34-13.10d and 34-13.10e.

2. The Planning Board shall make a determination of completeness upon recommendation of the Planning Board Engineer in accordance with the New Jersey Municipal Land Use Law and shall schedule a public hearing as required by the provisions of the New Jersey Municipal Land Use law with respect to publication of notice and notice to property owners within two hundred (200) feet of the site.

3. If the application is approved, the Planning Board or Board of Adjustment shall adopt a resolution of approval and forward the same to the Construction Official for the issuance of a permit by the Construction Official. In the event that the Planning Board or Board of Adjustment denies the application for the construction and erection of solar panels, the same will be done by written resolution in accordance with the requirements of the New Jersey Municipal Land Use law.

4. Expiration. A permit issued pursuant to this section shall expire if:

(a) The solar energy system is not installed and functioning within twenty-four (24) months from the date the permit is issued; or

(b) The solar energy system is out of service or otherwise unused for a continuous twelve (12) month period.

5. All applications, whether or not an Application for Development is required, shall be submitted to the Building Department and Fire Sub-Code Official for review and comment.

h. *Existing Alternative Power Sources (Solar Facilities).*

Existing alternative power sources which have been approved and are in operation as of the date of the passage of this section, and not in conformance of the terms and conditions of this section, may continue operation; however, in the event that the same are upgraded for any reason whatsoever, shall comply with this section in all respects. (Ord. No. 07-2016)

i. *Fees and Escrows.*

Application fees and escrows will be paid in accordance with the existing fee schedule applicable to the fees and escrows required for site plan and variance applications.

j. *Violations.*

It is unlawful for any person to construct, install, or operate a solar energy system that is not in compliance with this section. Both the solar system owner and the owner of the property on which the solar energy system is located shall be liable. (Ord. No. 07-2016)

k. *Administration and Enforcement.*

1. This section shall be enforced by the Construction Official or other official as designated by the Mayor and Council.

2. The Construction Official/ Electrical Inspector may enter any property for which a permit has been issued under this section to conduct an inspection to determine whether the conditions stated in the permit have been met.

3. The Construction Official may issue orders to abate any violation of this section.

4. The Construction Official may issue a citation to the owner and the owner of the property on which the violation exists for any violation of this section.

l. Penalties.

1. Any person who fails to comply with any provisions of this ordinance shall be subject to a fine by the Municipal Court of the Borough of Midland Park in accordance with the General Penalty Ordinance of the Borough of Midland Park.

2. Nothing in this section shall be construed to prevent the Borough of Midland Park from using any other lawful means to enforce this section.

§34-13.11 Generator, Air Conditioning Units and Similar Utilities.

a. The installation of a generator, air conditioning units, and/or any similar utilities may not result in any change to the existing parking, traffic and/or building layout.

b. The location of a generator, air conditioning units and/or any similar utilities shall conform to all required accessory structure setbacks.

c. In all non-residential zones, the location of a generator, air conditioning units and/or any similar utilities shall be no less than 15 feet from any property line.

d. In all residential zones, the location of a generator, air conditioning units and/or any similar utilities shall be no less than 5 feet from any property line.

e. A generator, air conditioning units and/or any similar utilities shall be screened such that it is not visible from the front yard.

f. A generator, air conditioning units and/or any similar utilities shall only be located in the side or rear yards.

§34-13.12 Flag Poles.

In all districts, flag poles shall be permitted provided that:

a. located in the front or side yards.

b. maximum height of twenty five (25) feet.

c. min setback of five (5) feet from property lines.

d. max of one (1) pole in residential zone and three (3) poles in non-residential zones.

§34-13.13 Drive-thru / Drive-up windows and outdoor ordering locations.

a. Located a minimum of seventy five (75) feet from any Residential Zone.

b. Hours of operation to be limited to 6am – 12 midnight.

c. Any drive-thru or drive-up windows shall have a minimum queuing line length of 150 feet from the center of the first service area.

§34-13A AFFORDABLE HOUSING MULTI-FAMILY SET-ASIDES.

§ 34-13A.1 Residential development set-aside requirements.

Except as otherwise regulated in this chapter, any multi-family residential development of five (5) or more units at or above six (6) units per acre approved as a result of any action of the Midland Park Planning Board or Board of Adjustment shall be required to set aside a minimum percentage of units for affordable housing. Where units will be for purchase, the minimum set aside shall be twenty percent (20%). Where units will be for rent, the minimum set aside shall be fifteen percent (15%).

Where the set-aside requirement in Subsection a. above results in a fractional unit, the total set-

aside requirement shall be rounded upwards to the next whole number.

Irrespective of the requirements in Subsections a. and b. above, the Borough shall not be under any obligation to grant variances or extraordinary approvals for any such construction and development applications will be required to otherwise conform to the Borough's zoning requirements.

§34-13A.2 Affordable housing compliance mechanisms.

Any developer with an affordable housing set-aside requirement pursuant to Subsection A.1 above shall be permitted to satisfy said requirement through any of the following mechanisms, or a combination thereof, provided that advanced written permission is obtained from the Borough of Midland Park:

On-site housing production;

Off-site housing production in the Borough;

The purchase of an existing market-rate dwelling at another location in the Borough and conversion thereof to an affordable deed-restricted dwelling in accordance with the applicable New Jersey Council on Affordable Housing (COAH) regulations, as may be amended from time to time;

Participation in gut rehabilitation and/or buy-down/write-down and/or buy-down/rent-down programs;

Payment in lieu of providing affordable housing; and

Any other compliance mechanism permitted under the applicable COAH regulations, as may be amended from time to time.

Satisfaction of the affordable housing compliance mechanism(s) so permitted shall be an automatic condition of all approvals. Said condition shall be satisfied in accordance with COAH's phasing requirements pursuant to N.J.A.C. 5:93-5.6(d).

§34-13A.3 Applicable rules; tenure; administration.

All affordable units to be produced pursuant to Subsections A.1 and A.2 above shall strictly comply with the "Affordable Housing" chapter of the Borough Code and the applicable COAH regulations, as may be amended from time to time.

The affordable units to be produced shall either be purchase or rental units, which shall be at the discretion of the developer.

It shall be the developer's responsibility, at its cost and expense, to arrange for an administering agency that may either be the Borough of Midland Park Municipal Housing Liaison, or some other entity approved by COAH and the Borough, to ensure full compliance with these rules and such certifications, reports and/or monitoring forms as may be required to verify compliance of each affordable unit.

§34-13A.4 Payments in lieu of construction.

The amount of payments in lieu of constructing affordable units on site shall be based on the cost of constructing each new residential unit, less proceeds anticipated from the sale of the unit or the capitalization of rental income from the unit. The cost of constructing new residential units includes the sum of development hard costs, related soft costs and developer's fees pursuant to the cost containment provisions of N.J.A.C. 5:43-2.4(a)1 through 6, and land costs equal to twenty-five percent (25%) of the first quartile of new construction costs as reported to the Homeowner Warranty Program.

Example:

<i>1st Quartile</i>	<i>Land Costs</i>	<i>Construction Costs</i>	<i>Total Cost</i>	<i>Affordable Price</i>	<i>Required Payment in Lieu Amount</i>
\$330,000	\$82,500	\$165,798	\$267,332	\$87,065	\$180,267

§34-13B Multi-Family Residential Overlay Zones.

§34-13B.1 Purpose.

The purpose of the Multi-Family Residential Overlay Zones is to create a realistic opportunity for housing in the Borough that is affordable to low and moderate income households. This Ordinance establishes two Multi-Family Residential Overlay Districts, Overlay 1 (MFO-1) and Overlay 2 (MFO-2), and permits the development of multi-family housing provided that such housing complies with the required inclusionary set-aside requirement specified herein and with the requirements of this ordinance.

§34-13B.2 Area Affected.

The Multi-Family Residential Overlay Zones are comprised of the following blocks and lots as further described by the zoning map appended to the end of this chapter:

MFO-1: Block 3 Lots 1.01, 1.02, 2, 3, 23.01, 24.01, 24.03 and 24.04.

MFO-2: Block 32 Lots 2, 3.02, 3.03, 3.04, 5.01; Block 33 Lots 1 thru 6, 7.01; Block 36 Lots 1.01, 1.02, 2; Block 52 Lot 1; Block 53, Lot 1, 2.01, 2.02, 2.03, 3, 3.03 and 4.

§34-13B.3 Permitted Uses.

The following uses shall be permitted within the Multi-Family Residential Overlay Zones subject to compliance with this Chapter:

Multi-family development.

Townhouse development.

Accessory buildings, structures and uses shall be permitted when used in conjunction with a principal permitted use, and in compliance with §34-13.1, Accessory Buildings and Structures.

Private residential garage and off-street parking.

Decks, balconies and porches.

Outdoor recreational uses for residents and their guests.

Fences and hedges subject to the requirements of §34.13.2, Fences, except where superseded by this ordinance.

Signs subject to the requirements of §34-17, Signs, except where superseded by this ordinance.

Satellite antenna less than one meter in diameter.

Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

§34.13B.4 Bulk Standards.

Minimum Lot Area:

MFO-1: 0.85 Acre

MFO-2: 1.5 Acres

Maximum Building Coverage: 40%

Maximum Improved Coverage: 60%

Maximum Front Yard Setback: 25 feet

Maximum Density:

MFO-1: 10 dwelling units/acre

MFO-2: 18 dwelling units/acre

Maximum Height and Stories: 36 feet/3 stories

Minimum Side Yard: 25 feet

Minimum Rear Yard: 25 feet

Buffers: There shall be a planted buffer of at least 25 feet between any principal building and the boundary of a contiguous residential zone or residential property.

§34-13B.5 Affordable Housing Requirements.

Multi-family/Townhouse development is permitted in each MFO Multi-Family Residential Overlay Zone, conditioned on compliance with this ordinance and the following limitations: All multi-family/townhouse development constructed within the Multi-family Residential Overlay Zones shall be required to set aside a minimum percentage of units for affordable housing. Where units will be for purchase, the minimum set aside shall be twenty percent (20%). Where units will be for rent, the minimum set aside shall be fifteen percent (15%). When calculating the required number of affordable units, any computation resulting in a fraction of a unit shall be rounded upwards to the next whole number.

All affordable units produced in the Multi-family Residential Overlay Zones shall comply with the Borough's "Affordable Housing" Chapter 22 of the Borough Code and the applicable COAH regulations, as may be amended from time to time.

The affordable units to be produced shall either be purchase or rental units, which shall be at the discretion of the developer.

The requirements of this Ordinance shall supersede the requirements of the Borough-wide Mandatory Set-Aside at Chapter 34-13A.

The current provisions of the underlying zone continue to remain in full force and effect except that, any development that occurs as a result of the underlying zoning, that is not multi-family residential as permitted herein, shall be subject to the payment of affordable housing fees in accordance with Chapter 22-3.

§34.13B.6 Parking.

The minimum amount of parking required for a site shall be based on the New Jersey Residential Site Improvement Standards (RSIS) but may be reduced consistent with N.J.A.C. 5:21-4.14 (f) but shall not be less than 1.5 parking spaces per unit.

Off-street parking shall be restricted to the rear yard or the side yard except for townhouse units, parking shall be permitted within the front yard within paved driveways leading to a garage space as permitted by RSIS.

All parking areas shall be at least fifteen (15) feet from a principal building and at least ten (10) feet from a property line.

Parking areas shall provide a minimum ten (10) foot landscaped buffer strip as to any building or property line, except that access drives may be located adjacent to a building when providing access to garage space in said building.

Access drives shall not enter a street closer than fifty (50) feet to an intersection.

§34.13B.7 Design Standards Goals.

To provide designs that create and promote a sense of neighborhood through appropriate massing, scale, use of building materials and original architectural details, and fenestration. To provide multi-story buildings to be designed with horizontal and vertical articulation to facilitate an enhanced visual interest in the neighborhood's architecture, and discourage buildings that are characterized by non-descript blank walls.

To provide the use of such building materials as brick, wood, native stone and clapboard to ensure complementary visual interest such as is found in the neighborhood, and discourage use of vinyl, cement block and aluminum.

§34.13B.8 Design Standards.

Façade design.

Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.

Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:

Each vertical articulation shall be no greater than thirty (30) feet apart.

Each vertical articulation shall be a minimum of one (1) foot deep.

Each vertical projection noted above may extend into the required front yard a maximum of eighteen (18) inches in depth.

Building walls with expansive blank walls are prohibited on any building façade regardless of its orientation.

Materials. Exterior building materials shall be classified as either primary, secondary or accent materials. The facade shall be designed in accordance with the following:

The primary material shall cover at least sixty percent (60%) of the facade of the building.

Secondary materials shall cover not more than forty percent (40%) of the facade.

Roof lines/building height.

The top of all buildings must be capped by a cornice or sloping roof element.

An additional five (5) feet in height for ornamentation such as parapets and cornices is permitted.

Townhouse Design.

For townhouses, no more than a maximum of six dwelling units in a single row shall be permitted and a minimum offset of two feet between every two dwelling units shall be required.

There shall be a minimum separation of fifteen feet between building clusters.

The rooflines of at least 30% of the number of units attached in a structure are to be staggered in height by not less than 2.5 feet of the height of the rooflines of the other units in such structures, and/or by other features which will provide relief or articulation to the roofline.

Street Trees.

Street trees shall be provided along all public rights-of-way located at a minimum distance of forty (40) feet on center. The exact spacing and planting location shall be evaluated on a site-specific basis and adjusted to reflect the neighborhood and existing or proposed buildings to minimize potential obstruction and visibility impacts on street corners and street signage.

Trees shall have a minimum caliper size of three (3) inches measured six inches from grade at time of planting, and evergreen trees shall have a minimum height of 7 to 8 feet of planting. All plant materials, planting practices and specifications shall in accordance with standards established by the American Association of Nurserymen. Trees shall be nursery-grown, free of disease, substantially uniform in size and shape and have straight trunks. The minimum branch height at planting shall be six feet, except where planting is on a sight triangle, in which case no branches shall be below eight feet.

Trees shall be properly planted and firmly supported with two or three guyed wires attached to

stakes. Pieces of rubber hose shall be used under the wires where they are attached to the trees. Wires and stakes shall be removed by the applicant after one year.

Garbage and recycling.

Garbage and refuse containers shall be located in the rear yard where that yard is accessible by collection vehicles. If the rear yard is not accessible by collection vehicles, the containers may be located in the side yard or inside the building provided that they are properly screened from public view.

Containers stored outdoors must be screened by a fence or other enclosure. Landscaping is encouraged around the enclosure.

Landscape Standards.

A landscape plan prepared by a licensed Landscape Architect, licensed by the New Jersey State Board of Architects, or other qualified individual, shall be submitted with any plan for development.

All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, existing vegetation, and the planting of coniferous and/or deciduous trees native to the area in order to maintain or reestablish the vegetation in the area and lessen the visual impact of the structures and paved areas.

Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered. Consideration shall be given to accenting site entrances and unique areas with special landscaping treatment. Flowerbed displays are encouraged.

Landscaping shall be designed to achieve a thorough integration of the various elements of site design, including building and parking placement and natural features.

Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an eight-foot branching height above grade.

The use of indigenous/native plant material is to be encouraged to establish sustainable landscapes that blend with the natural environment, reduce the use of pesticides and reduced irrigation.

The use of passive systems such as raingardens to offset offsite stormwater discharge shall be utilized to the extent feasible.

Water conservation measures such as drip irrigation and soil moisture-sensing irrigation systems shall be used where practicable.

The design standards are minimum requirements. The Board may request additional development features exceeding these standards if conditions warrant.

Mechanical and Utility Equipment.

Heating, ventilation and air conditioning located on, beside or adjacent to the building or development shall be fully screened from the street and adjacent property.

All roof-mounted equipment, such as HVAC units, shall be screened from public view by use of parapet walls, as regulated elsewhere in this ordinance, provided that, the maximum height for screening roof-mounted elevator equipment shall be eight feet, with such screening set back minimally ten feet from the edge of the roof.

Lighting.

On-site lighting shall protect and enhance the character and quality of the surrounding neighborhood. Glare trespass shall be minimized via fully shielded or full cutoff fixtures. It is important that on-site lighting achieves the following:

Transmit accurate messages to the public about the low intensity residential nature of the development.

Serve as an integral part of the overall design. It should support visibility for pedestrians as well as for motorists.

Minimize glare by controlling the amount of light that tends to create glare. It should also minimize sky glow by controlling the amount of uplight and minimize the amount of off-site impacts or light trespass.

Light design should establish uniformity of lighting levels over an area, avoiding uplight, backlight and glare, thus reducing the contrast between shadows and illuminated areas, except when highlighting a specific area or feature.

All lighting fixtures and foot-candle standards for the site should be consistent with the standards outlined by the Illuminating Engineering Society of North America (IESNA).

A lighting plan prepared by a qualified individual shall be provided with site plan applications. The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the approving authority.

All parking areas, walkways, building entrances, and driveways shall be adequately illuminated after sunset. Any adjacent residential zone shall be shielded from the glare of illumination from site lighting and automobile headlights.

General Guidelines.

Site lighting shall be full cutoff or fully shielded.

Lights shall be aimed downward and away from the property line. Maximum light level at the property line of an adjoining residential property shall not greater than 0.5 fc. There shall be no light trespass onto adjoining parcels.

All parking lot lighting shall have no light emitted above 90 degrees.

Permitted Illuminance

Horizontal foot-candle measured at grade: Average 2.0

Parking Lot and Site Lighting:

All luminaires shall be a full cut off design, aimed downward and away from the property lines.

Maintained horizontal illuminance at grade should not exceed 2.5 fc.

Maximum light pole heights: 20 ft.

§34-14 LOTS, REGULATIONS GOVERNING.

§34-14.1 Special Lots.

a. *Corner Lots.* On corner lots, the yard depth or setback from each street shall not be less than the required front yard on each street.

b. *Through Lots.* Where a lot extends from one street to another and is not a corner lot, no building shall be erected within twenty-five (25) feet of the rear property line.

c. *Lots in More Than One (1) District.* Where any lot is situated in more than one zoning district, all yard and other bulk requirements shall be measured from the true lot line and not the zoning district boundary line. All use requirements of the zoning district in which each portion of the lot is located shall apply to the portion of the lot located in that zone.

d. *Flag Lots.* Flag lots are prohibited.

§34-14.2 Existing Platted Lots.

Any lot or plot as recorded at the time of passage of this chapter that fails to comply with

the minimum requirements of this chapter may be used for any use not otherwise prohibited in such district in which it lies, provided that all of the following requirements are complied with:

- a. Said lot is in single ownership as defined in this chapter.
- b. All yard requirements are complied with, except that where the average lot width is less than its zone district requirements the side yards may be reduced by the percentage that the lot width bears to the zone district requirements; provided, however, no side yard shall be less than six (6) feet.

§34-14.3 Subdivision of Lot.

When a new lot or lots are formed from part of a parcel of land, the separation must be effected in such a manner as not to impair any of the provisions of this chapter. (Ord. #13-02 § 14.3)

§34-14.4 Required Area or Space.

- a. No lot, yard, parking area or other space shall be so reduced in area or dimension as to make said area or dimension less than the minimum required under this chapter. If already less than the minimum required under this chapter, said area or dimension shall not be further reduced.
- b. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot, except as otherwise provided herein.
- c. No minimum off-street parking, loading or unloading areas shall be considered as providing off-street parking, loading or unloading for a use, building or structure on any other lot or parcel than the principal use to which it is ancillary, except as provided herein.

§34-14.5 Principal Buildings.

Only one (1) principal building may be erected on a lot except as permitted for planned developments or as otherwise specifically permitted by this chapter. (Ord. #13-02 § 14.5)

§34-14.6 Traffic Visibility Across Corner Lots.

In addition to any other requirement governing yards, setbacks or fences on corner lots, no fence, wall, planting, shrubbery or other structure over thirty (30) inches in height shall be permitted on any corner lot within twenty-five (25) feet of the intersection formed by the projections of the edge of pavement at the corner. (Ord. #13-02 § 14.6)

§34-14.7 Yards.

- a. Every lot must provide front, rear and side yards as required by its zone district. All front yards must face upon a dedicated public street or a private street approved by the Planning Board. On streets less than fifty (50) feet in width, the required front yard shall be increased by one-half (1/2) the difference between the width of the street and fifty (50) feet; provided, however, that any lot that abuts a street with a proposed right-of-way greater than fifty (50) feet as adopted on the Official Map pursuant to the Municipal Land Use Law, the front yard setback shall be measured from the nearest line of the building to the proposed right-of-way line adopted on said Official Map.
- b. No area providing front, side or rear yard space for one (1) building shall be considered as providing the yard requirements of another building except as provided in this chapter.
- c. Required yard areas shall be open to the sky, unobstructed except for customary extension of parapets, window sills, doorposts, leaders and gutters and similar structural or ornamental fixtures which may not extend more than nine (9) inches into any yard area.
- d. Cornices, eaves, bay windows, roofs and fire escapes may project not more than two and

one-half (2.5) feet into any setback area.

e. Chimneys or flues may be erected within any yard area provided that they do not exceed sixteen (16) square feet in total external area and do not project more than two (2) feet into any setback area.

f. Improved lot coverage shall not be within 5 ft of the lot lines with the exception of driveways and walkways where permitted by code.

g. All fences and walls may project into any required side or rear yard area provided that any fence or wall is not higher than allowed in this chapter, and shall not block or obstruct automobile vision.

h. Improved lot coverage shall not occupy more than thirty (30%) percent of any front yard for any residential use in any zoning district.

i. Patios may be located in any side or rear yard, provided that they are not closer than five feet to any property line.

j. When a solar panel or other device to utilize solar energy for the heating of water or a dwelling is installed, seven and one-half (7.5) feet shall be the minimum side yard requirement, and the minimum rear yard setback shall be twenty (20) feet. In the case of the side yard, the height of the solar panel or other device may not exceed ten (10) feet. All plans for solar panels shall be submitted to the Construction Official and Plumbing Subcode Official prior to installation. A permit is required from the Construction Official.

§34-15 BUFFER ZONES.

§34-15.1 Where Required.

All nonresidential uses which abut a residential zone shall be required to install, plant and maintain a buffer zone in accordance with the provision of this section.

§34-15.2 General Standards.

a. Buffer zones shall consist of a strip of land equal to:

Minimum Buffer

<i>Lot Width</i>	<i>Sideyard</i>	<i>Rear</i>
<75'	5'	5'
75' - 150'	10'	10'
150' +	15'	15'

b. The buffer zone shall be kept in its natural state where wooded. Where natural vegetation is sparse, the buffer zone shall be a continuous screen of plant material at least six (6) feet in height and/or a solid or tightly woven fence may be required by the Planning Board, so as to provide a year-round visual screen. Said planting may be placed in suitable areas in the buffer area as shall be required by the Planning Board.

c. Except as provided in paragraph d., no structure, activity, parking of vehicles, access driveways, loading areas, outdoor storage nor any principal or accessory structures shall be permitted within the buffer zone.

d. Underground utility easements, access driveways from public streets, one (1) unlighted direction sign per each direction of traffic per access drive and signs permitted by this chapter are permitted within the buffer zones.

§34-15.3 Screening of Special Uses.

Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures within twenty-five (25) feet of a residential zone's property shall be subject to screening. The screening shall consist of a fence or shrub row along the side facing the residential zone. (Ord. #13-02 § 15.3)

§34-15.4 Maintenance.

It shall be the responsibility of the owner to assure the continued viability of plant materials, to maintain the buffer zone, including fences and to keep the buffer zone clean of all debris and rubbish. Any screen planting which does not live shall be replaced within thirty (30) days after the season permits.

§34-15.5 Lighting.

Lighting of parking areas or other areas serving multifamily or nonresidential uses shall be screened from adjoining residential properties. There shall be no glare or spillage of lighting in excess of five-tenths (.5) fc onto adjoining residential property.

§34-15A.1 RIPARIAN ZONES.

Intentionally Omitted.

§35-15A.2 Intent and Authority.

It is the intent of this section to provide compliance with N.J.A.C. 7:15-4.25(g)3 which requires municipalities to adopt an ordinance that prevents new disturbance for projects or activities in riparian zones. Authority is provided or limited as follows:

- a. Compliance with the riparian zone requirements of this section does not constitute compliance with the riparian zone or buffer requirements imposed under any other Federal, State or local statute, regulation or ordinance.
- b. Use powers given to Midland Park under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use in order to protect public health, safety, and welfare through the protection and maintenance of native vegetation in riparian areas. Midland Park is also empowered to adopt and implement this section under provisions provided by the following legislative authorities of the State of New Jersey:

1. Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
2. Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.
3. Spill Compensation Control Act, N.J.S.A. 58:10-23 et seq.
4. Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
5. Flood Hazard Area Control Act, N.J.S.A. 58:15A-50 et seq.

§34-15A.3 Riparian Zone Protection.

a. Riparian zones adjacent to all surface water bodies as described below in this paragraph shall be protected from avoidable disturbance:

1. The riparian zone shall be three hundred (300) feet wide along both sides of any Category One water (C1 water), and all upstream tributaries situated within the same HUC 14 watershed.
2. The riparian zone shall be one hundred fifty (150) feet wide along both sides of the following waters not identified in paragraph a. above:
 - (a) Any trout production water and all upstream waters (including tributaries);
 - (b) Any trout maintenance water and all upstream waters (including tributaries)within one (1) linear mile as measured along the length of the regulated water;
 - (c) Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream waters (including tributaries) within one (1) linear mile as measured along the length of the regulated water;
 - (d) Any segment of a water flowing through an area that contains acid producing

soils; and

3. For all other surface water bodies, a riparian zone of fifty (50) feet wide shall be maintained along both sides of the water.

b. The portion of the riparian zone that lies outside of a surface water body is measured landward from the top of bank. If a discernible bank is not present along a surface water body, the portion of the riparian zone outside the surface water body is measured landward as follows:

1. Along a linear fluvial or tidal water, such as a stream or swale, the riparian zone is measured landward of the feature's centerline;

2. Along a nonlinear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface water limit; and

3. Along an amorphously-shaped feature such as a wetland complex, through water flows but which lacks a discernible channel, the riparian zone is measured landward of the feature's centerline.

The applicant or designated representative shall be responsible for the initial determination of the presence of a riparian zone on a site, and for identifying the area on any plan submitted to Midland Park in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. This initial determination shall be subject to review and approval by the Municipal Engineer, governing body, or its appointed representative, and, where required, by the New Jersey Department of Environmental Protection.

§34-15A.4 Exceptions.

a. The following disturbances are excepted:

1. Redevelopment within the limits of existing impervious surfaces; and

2. New disturbance in the riparian zone necessary to protect public health, safety or welfare; to provide an environmental benefit; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment.

b. An exception to any of the disturbances listed in paragraph a,1 above shall be granted by the Municipal Engineer upon proof by virtue of submission of appropriate maps and drawings, that the proposed redevelopment is within the limits of impervious surfaces that existed at the time of passage of this section and shall be in conformance with the Stormwater Management Rules, N.J.A.C. 7:8, and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.

c. For all riparian zones an exception to any of the disturbances listed in paragraph a,2 above shall be granted by the Zoning Board of Adjustment upon proof by virtue of submission of appropriate maps, drawings, reports and testimony, that the disturbance protects public health, safety or welfare; provides an environmental benefit; prevents extraordinary hardship on the property owner peculiar to the property; or prevents extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment.

d. Appeals of a determination by the Municipal Engineer made in accordance with paragraph b. above may be made to the Planning Board. The party contesting the determination or decision shall have the burden of proof in case of any such appeal.

§34-15A.5 Adjustments.

Adjustments to the riparian zones established by this section are allowed to the extent they comply with the Stormwater Management Rules (N.J.A.C. 7:8), the Flood Hazard Area

Control Act Rules (N.J.A.C. 7:13), and the Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38), and shall be subject to review and approval by the New Jersey Department of Environmental Protection, unless exempt.

§34-15A.6 Permits-By-Rule.

The Flood Hazard Area Control Act Rules (N.J.A.C. 7:13), subchapter 7, Permits-By-Rule, establishes permits-by-rule for certain regulated activities. This section hereby adopts by reference said Subchapter as it exists at the time of passage of this section and as it may change from time to time, as a means of allowing regulated activities in the riparian zone without any other permits or approvals. In addition, any permit-by-rule provision that requires notification to the New Jersey Department of Environmental Protection shall also be copied to the Borough of Midland Park Municipal Engineer.

§34-15A.7 Enforcement.

A prompt investigation shall be made by the appropriate personnel of the Midland Park, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this section is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this section shall be construed to preclude the right of the Borough of Midland Park pursuant to N.J.S.A. 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this section shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this section. Each day a violation continues shall be considered a separate offense.

In addition any person convicted of violating any provision of this section shall be subject to such fines and penalties as set forth in Section 1-5, General Penalty, of the Borough Code.

§34-16 OFF-STREET PARKING AND LOADING.

§34-16.1 Off-Street Parking in Residential Districts.

There shall be at least two (2) off-street parking spaces located together and a required one car garage minimum, total of three (3) spaces, for each dwelling unit hereafter erected. No off-street parking areas shall be located closer than two (2) feet to a side property line and five (5) feet to a rear property line. Said parking space and any additional area used for off-street parking shall be paved with asphalt or other dust free material. Paved driveways may be considered part of the required parking area. Unless garaged, no inoperable or unregistered vehicles shall be parked on these premises. Nonresidential uses permitted in residential districts shall provide the number of parking spaces required by the specific use prescribed in this chapter. These requirements shall apply to all surface and above-grade parking areas and facilities. All parking facilities shall be complete prior to issuance of the certificate of occupancy by the Construction Official.

§34-16.2 Nonresidential Off-Street Parking.

Off-street parking shall not be located in a required front yard. No off-street parking area shall be located closer than six (6) feet to a side or rear lot line. The number of off-street parking spaces required shall be as set forth in Schedule II, Off-Street Parking Requirements which accompanies this chapter. If the determination of the number of required parking spaces results in a fractional space, the fraction shall require one (1) additional space. These requirements shall apply to all surface and above-grade parking areas and facilities. All parking

facilities shall be complete prior to issuance of the certificate of occupancy by the Construction Official.

Editor's Note: Schedule II, Off-Street Parking Requirements referred to herein may be found at the end of this chapter.

§34-16.3 Off-Street Loading and Unloading Space.

In all districts, for every building or use requiring the receipt or distribution in vehicles of materials or merchandise, and for large scale public and quasi-public uses, there shall be maintained on the same lot with such building or use off-street loading spaces in accordance with Schedule III, Off-Street Loading Space Requirements which accompanies this chapter. ** No off-street loading spaces shall be located in the front yard.

§34-16.4 Joint Facilities.

Off-street parking and loading facilities for separate uses on the same site may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use and provided that all regulations governing the location of accessory spaces in relation to the use served are adhered to. No accessory space or portion thereof shall serve as a required space for more than one (1) use unless otherwise approved by the Planning Board.

§34-16.5 Maintenance.

Every public or private off-street parking or loading area shall be maintained in good condition, free of hazards and deterioration. All improved and paved areas, sidewalks, curbs, lighting area bumpers, guard rails, signs and landscaping and other improvements shall be maintained in a safe and good condition. Parking spaces shall be clearly delineated and the striping thereof shall be clearly visible.

§34-16.6 Off-Site Parking Facilities.

a. Required parking and loading areas and spaces shall be provided upon the same lot as the use to which they are accessory, or, for nonresidential buildings only, within three hundred (300) feet of such lot, measured by straight line from the nearest of such spaces to the property line of the lot containing the use served. All parking and loading areas and spaces located on a different lot from the use to which they are accessory shall be permanently established for such accessory use as follows: deed restrictions approved by the Borough Attorney shall be placed upon such areas and filed with the County Clerk, binding an owner and his heirs and assigns to maintain the required number of spaces available, either for the entire life of the use to which they are accessory or until such spaces are provided elsewhere and approved by the Planning Board.

b. When a use is located on a lot which is partly in one zoning district and partly in another zoning district, parking spaces for such lot may be located without regard to district lines provided that no parking or loading areas or spaces shall be located in any residential zoning district, unless the use to which they are accessory is permitted in such district.

§34-16.7 Parking and Storage of Recreation Vehicles.

In all zoning districts, noncommercial trailers, mobile homes, boats, campers and similar portable or wheel-based objects shall comply with requirements of subsection 34-13.5.

§34-17 SIGNS.

§34-17.1 Short Title

This section shall be known as the "Midland Park Sign Regulations".

§34-17.2 Intentionally Omitted.

§34-17.3 Intentionally Omitted.

§34-17.4 Area of a Sign.

The area of a sign is the area within a line drawn around the surface of a sign, including all decorations, but excluding any supports whether decorative or not. In computing sign area, the area of all surfaces used or employed or designed for use as a sign or for sign purposes shall be included and totaled, except that a sign may have a second opposing face which shall not be counted toward the total sign area.

§34-17.5 Permitted and Prohibited Signs.

- a. It shall be unlawful for any person to erect or relocate any sign within the Borough of Midland Park, as defined by this chapter, without first obtaining a permit from the Construction Official pursuant to subsection 34-17.12 of this chapter.
- b. The Construction Official shall issue permits only for such signs as are specifically allowed for the particular premises and district by the provisions of this chapter which govern, unless otherwise ordered pursuant to a sign exception granted under subsection 34-17.10 of this chapter.
- c. Job site signs are permitted during construction of the project and must be removed when job is completed.
- d. Garage sale are signs only permitted on private property during the sale and must be removed immediately after the sale has concluded.

§34-17.6 R-1 Residential Zones.

Within the one-family zones only the following signs shall be permitted:

- a. On premises used for residential purposes, a sign or signs identifying the resident or the street address, or both, and no such sign shall have an area of more than two (2) square feet, nor shall the aggregate square footage of such signs, if there be more than one (1), exceed three (3) square feet in area.
- b. On premises used for residential purposes which contain a professional office, in addition to the sign or signs, permitted by paragraph a., a professional announcement sign, the dimensions of said sign not to exceed eight by twenty (8 x 20) inches.
- c. On premises used for church, hospital, library, museum, or other charitable purposes allowed by the Zoning Ordinance of Midland Park, New Jersey, a sign referring to the premises upon which it is located or displayed or to the activities carried on therein, not to exceed sixteen (16) square feet in area, whether affixed to the structure or freestanding, said sign to be permitted in addition to any sign allowed under paragraph a. above.

§34-17.7 R-2 Residential and R-3 Residential/Industrial Zones.

There shall be permitted within the R-2 Residential and R-3 Residential/Industrial Zones such signs that are permitted in the R-1 Zone, as well as signage identifying the name of the building or complex, subject to the size limitations set forth in subsection 34-17.6.

§34-17.8 Business and Industrial Zones.

Within the retail business and industrial zones only the following signs shall be permitted:

- a. Any sign permitted by the provisions of subsections 34-17.6 and 34-17.7 of this section.
- b. *Regulations.*
 1. In addition to the foregoing, a sign or signs referring to or advertising the premises upon which it is located or displayed, or to the identity of the occupant thereof, or to a

service rendered thereon or therein, or to a product or item available therein, or to a trade, business or profession carried thereon or therein; one (1) such sign may be erected on any entrance wall and one (1) on any wall facing on a street, and one (1) on any wall facing a municipal or public parking area, and shall be erected parallel to the face of such wall, not extending more than twelve (12) inches from the face of said wall shall have the bottom of said sign structure not less than eight (8) feet above the ground level.

2. The maximum aggregate total sign area of all signs shall not exceed one and one-half (1-1/2) square feet for each linear foot of that portion of the building front occupied by the applicant. The maximum height of such sign shall not exceed two (2) feet if the building front is forty (40) feet or less in width, two and one-half (2-1/2) feet high if building front is more than forty (40) feet but less than eighty (80) feet in width, and three (3) feet high if the building front is eighty (80) feet or more in width.

3. The maximum width of such sign shall not exceed ninety percent (90%) of the width of the store front or wall of that portion of the premises occupied by the occupant erecting the sign and upon which it is attached. In determining maximum width of the store front or main entrance wall of the premises or the width of the wall upon which any such sign shall be erected, whichever is less, shall govern.

4. Awnings are permitted provided they comply with the IBC Code and the requirements of this section. Signage is permitted on any vertical edge only and the lettering shall not be more than eight (8) inches in height.

5. Signs are to be removed within thirty (30) days after a vacancy of premises.

6. Signs painted or placed or hung within forty-eight (48) inches from the inside window glass of any building shall be limited to twenty (20%) percent of the area of said glass, but in no event shall they exceed a total area of thirty-six (36) square feet, the more restrictive limitation shall apply.

c. In the case of premises other than motor vehicle service stations, in which the structure is set back at least thirty (30) feet from the curblin, a freestanding sign of an area not in excess of twelve (12) square feet may be erected for the purposes set forth in paragraph b., provided that the top of such sign shall not be more than fifteen (15) feet above the level of the ground and shall not extend over the property line.

1. For properties with a street frontage of 200 ft or greater the freestanding sign are is not in excess of twenty four (24) square feet, with a maximum width of 6 feet and maximum height of eighteen (18) feet above the level of the ground and shall not extend over the property line.

2. For properties with a street frontage of 300 ft or greater the freestanding sign are is not in excess of thirty six (36) square feet, with a maximum width of 6 feet and maximum height of eighteen (18) feet above the level of the ground and shall not extend over the property line.

d. In addition to any sign or signs permitted under paragraphs a, b, and c, a sign or signs limited to those purposes set forth in paragraph b. and to show or evidence membership in a retail or professional organization or credit card or credit association or plan, to show manufacturers' or legally required licenses, attached to or painted on a store window or windows on the exterior or interior of any structure, the total area of such sign or signs not to exceed thirty (30%) percent of the window space.

e. *Motor Vehicle Service Station.* In addition to any sign or signs permitted in other sections of this chapter, one (1) sign bearing the brand or trade name of the gasoline sold on the premises of a design specified by the manufacturer, permanently affixed to the building or its own metal substructure, said sign not to exceed thirty (30) square feet in area which shall be rigidly and

securely attached to the ground surface so as to create no danger to life or limb and shall not exceed eighteen (18) feet in height overall. The area of a two-sided sign shall be determined by dimensions of one (1) side.

§34-17.9 General Prohibitions.

Without limiting the generality of the preceding provisions of this section:

- a. No billboard or billboard signs shall be permitted. No sign otherwise lawful under this chapter shall be prohibited because of this section.
- b. No sign shall be placed or located or displayed upon any sidewalk or area between sidewalk and curb.
- c. No roof sign often known also as "sky sign" shall be permitted. No sign otherwise lawful under this section shall be prohibited because of this subsection.
- d. No sign projecting on or over a sidewalk shall be permitted.
- e. Except as otherwise specifically provided in this section, no freestanding signs shall be permitted.
- f. No signs shall be erected or painted or composed of fluorescent, phosphorescent or similar material.
- g. No sign shall be, in whole or in part, moving, mobile or revolving, flashing or changing colors.
- h. No strings or streamers of flags, pennants, spinners or other similar devices strung across, upon, over or along any premises or building, whether or not as a part of any sign, shall be allowed within any zone, except those which shall be specifically exempted under subsection 34-17.10 of this section.
- i. No neon signs may be installed or placed in or upon any property in any zone.
- j. The portion of a sign identifying a business use shall be removed within thirty (30) days after the business ceases operation on the premises.
- k. Lighting used to primarily illuminate a sign, whether internal or external, shall be extinguished by 11pm.

§34-17.10 Exemptions.

The provisions and regulations of this section shall not apply to the following signs; provided, however, that said signs remain subject to the provisions of size, number and location and the provisions of subsection 34-17.13 of this section.

- a. A professional nameplate affixed to the door or adjacent wall of premises so used, not to exceed eight by twenty (8 x 20) inches per professional occupant.
- b. A bulletin board not exceeding five (5) square feet in area for public charitable or religious institutions when located upon the premises of said institutions, said bulletin board to be in addition to any sign or signs permitted under subsection 34-17.6c. of this section.
- c. A memorial sign or tablet, or a sign indicating the name of a building or the date of its erection, when cut into any masonry surface or when constructed of bronze or other noncombustible material.
- d. The following signs, customary and necessary to the operation of filling and motor vehicle service stations:
 1. Lettering on buildings displayed over individual entrance doors consisting of the words "washing," "lubrication," "repairing" or words of similar import, provided that there shall be not more than one (1) such sign over each entrance and that the letters shall not exceed ten (10) inches in height.
 2. Lettering or other insignia which are a structural part of a gasoline pump

consisting only of a brand name, lead-warning sign and other signs as required by law.

3. A credit card sign not exceeding two (2) square feet in area affixed to the building.

4. A sign attached to each gas pump with the price of the product, as required by law.

5. The maximum aggregate area of all signage, excluding signage permitted by subsection 34-17.8e., shall not exceed twenty (20) square feet.

e. Signs of every kind and nature erected by or on behalf of the United States of America, the State of New Jersey, the County of Bergen and the Borough of Midland Park, traffic controls in private ways and parking lots, legal notices, railroad crossing signs, or other signs required by law, and such temporary signs for public and charitable purposes as may be approved by the Zoning Official for a period of time not to exceed thirty (30) days.

f. A sign customary and necessary in the offering of real estate for sale or to let by the owner thereof and his agent or broker in R-1, Residence Zone, not to exceed three (3) square feet in area.

g. Signs customary and necessary in the offering of real estate for sale or to let by the owner thereof and his real estate agent or broker in retail business and industrial zones not to exceed sixteen (16) square feet in area.

h. Signs customarily used to indicate that real estate offered for sale or to let has been sold or leased by the real estate agent or broker concerned in R-1, R-2 and R-3 Residence Zones, not to exceed six (6) square feet in area and not to be maintained more than two (2) weeks after closing.

i. Signs customary and necessary in the offering of a newly constructed building for sale or to let by the owner thereof and his real estate agent or broker in the R-1, R-2 and R-3 Residence Zones, not to exceed three (3) square feet in area, and in the retail business and industrial zones, not to exceed sixteen (16) square feet in area.

j. Temporary signs customary and necessary in connection with the erection of buildings or other construction work shall be limited to one (1) sign for each construction project, to include only the identification of the project, the architect, the builder and the subcontractors. Such sign may be freestanding or attached to the premises, but shall not exceed twenty (20) square feet in area, and shall be removed at the completion of construction, rental or sale.

k. The interior contents of lawfully permitted signs specifically designed to be changed from time to time, such as church announcement boards, theater marquees, restaurant menus and the like.

l. Temporary signs for governmental, political, religious and charitable purposes, provided that the same are not in excess of fifty (50) square feet in area and do not violate the placement or construction provisions of this chapter, including exterior decorating for holiday or patriotic purposes for a period not to exceed thirty (30) days.

m. Flags and banners customarily used in connection with the opening of a new business or enterprise shall be permitted to be displayed on the face of the building within which the enterprise or business is opening, on the day of opening thereof and for ten (10) consecutive business days thereafter, provided only that the person or entity desiring to so display flags and banners on the opening of the business shall obtain a permit in accordance with subsection 34-17.12 of this section and be charged a minimum permit fee.

n. Temporary A-frame, Sandwich board or Sidewalk signs shall be permitted during business hours only and the frame shall not be greater than 2 wide and 4 high. If placed near / on

sidewalk a minimum of three (3) feet clearance on the sidewalk shall be maintained for pedestrians.

o. All signs referred to in paragraphs f. through o. may be freestanding or attached to the premises.

§34-17.11 Lighting and Illumination.

Any sign permitted by the provisions of this section or allowed pursuant to a sign exception granted under subsection 34-17.14 of this section may be nonilluminated or nonflashing-illuminated. Illuminated signs shall have sources of illumination shielded in such a manner that such sources are not visible from the street or adjoining property.

§34-17.12 Permit Procedure.

Any person desiring and intending to construct, place or relocate any sign within the Borough of Midland Park shall first apply for and obtain a sign permit from the Building Department.

a. *Exemptions from Application Requirements.* Signs permitted by subsection 34-17.5c. and subsection 34-17.6 are exempt from application requirements.

§34-17.13. Unsafe Signs.

If the Construction Official shall find that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the owner, agent or person having the beneficial use of the premises upon which such sign may be erected. If such owner, agent or person fails to remove or alter the sign so as to comply with the standards herein set forth within ten (10) days after such notice, such sign or other advertising structure may be removed, or altered to comply, by the Construction Official at the expense of the owner, agent, or person having the beneficial use of the premises upon which such sign may be erected. The Construction Official may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

§34-17.14. Appeal Process.

Any person who has been denied a sign permit by the Construction Official for any reason may apply for a sign Variance to the Board of Adjustment of the Borough of Midland Park in the manner following:

a. Written notice of appeal must be filed with the Construction Official as well as the Secretary of the Board of Adjustment within twenty (20) days of the denial by the Construction Official.

b. The procedure applicable to variance applications shall govern thereafter, including any filing fees.

§34-17.15 Special Sign Exception.

a. Notwithstanding anything herein before set forth, special exception may be made for signs advertising public events of a civic, benevolent or charitable nature to be temporarily erected or suspended over or across any street, sidewalk, roadway or other public right-of-way by a civic, charitable or other nonprofit organization of the Borough in accordance with the following provisions:

1. Applicant shall submit the application for a sign erection permit to the Borough Council for their approval prior to the submission of the application to the Construction Official.

2. Applicant shall obtain the approval of the owner of any utility poles or other structures upon which the sign shall be affixed, attached or otherwise supported.

3. Applicant shall obtain the approval of the County of Bergen if the sign is

suspended over or across any County street or roadway.

4. Applicant shall submit proof of insurance coverage in accordance with the amount specified by the Borough Council.

5. Applicant shall submit an application to the Construction Official in accordance with subsection 34-17.12 hereof.

b. No sign under this section shall be displayed for a period in excess of ten (10) days.

c. No sign under this section shall be erected or suspended less than fifteen (15) feet above the surface of the street, sidewalk, roadway or other public right-of-way.

d. All signs under this section extending over any public sidewalk, street, alley or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from other cause. No sign shall be erected or maintained extending over any public sidewalk, street, alley or other public place in such a location as to obstruct the view of any traffic light or other traffic sign or sign.

e. Application fees set forth in subsection 17.12b. may be waived by the Borough Council.

f. All signs permitted under this section shall be removed within thirty-six (36) hours after completion of the public event or occurrence for which the special exception was made.

§34-17.16 Zoning Variance.

A zoning variance granted pursuant to N.J.S.A. 40:55D-70d, which varies a use allowed in a particular district for particular premises, shall be deemed to vary the provisions of this section in the same respect for the same premises.

§34-17.17 Nonconforming Signs.

Any sign existing at the time of the passage of this chapter and which violates any provision thereof shall be deemed a nonconforming use and may be continued, maintained and repaired upon the present premises or location; provided, however, such sign was lawful under any prior ordinance. Any sign unlawful under any prior ordinance shall remain unlawful unless it complies with the provisions of this section and there is issued by the Construction Official a sign erection permit therefor.

§34-17.18 Violations and Penalties.

For each and every violation of the provisions of this section, the owner, lessor, lessee, occupant, sign erector, contractor or other person interested in the premises upon which the violation has been committed and who refuses to abate said violation within ten (10) days after written notice has been served upon him by regular mail or personally shall, upon conviction, be subject to a fine or imprisonment or both in accordance with Section 1-5, General Penalty, of the Borough Code.

§34-17.19 Enforcement.

This section shall be administered and enforced by both the Construction Official and Zoning Officer.

a. If any person shall have been convicted of a violation of this chapter under subsection 34-17.18 hereof, and the sign or signs shall continue as violations despite said conviction, then, upon the expiration of the time for appeal as provided by law, if no appeal has been taken, or upon affirmation of the conviction by the Superior Court, if an appeal has been taken, the Construction Official and the Zoning Officer may serve an additional ten-day notice upon the person so convicted to require him to remove the sign or signs in violation and if said sign or signs shall not have been so removed upon the expiration of the said ten (10) day period, the Construction Official and the Zoning Officer shall have the power to remove the sign or signs or

cause the same to be removed without further notice, but at the sole expense of the owner of the premises.

b. *False Advertising.*

1. It shall be unlawful for any person to intentionally erect, locate, relocate or maintain any sign which falsely identifies the premises or occupant of any premises or building, or which falsely advertises for sale on any premises or in any building any product no longer available therein and an intentional violation of this section shall subject the violator to the penalty provisions of subsection 34-17.18 of this chapter after due notice as required therein.

2. In addition, if any person shall have been convicted of a violation of this chapter under subsection 34-17.18 hereof because of a violation of subsection 34-17.19b and the sign or signs shall continue as violations despite said convictions, then upon the expiration of the time for appeal as provided by law, if no appeal has been taken, or upon affirmance of the conviction by the Superior Court, if an appeal has been taken, such sign no longer advertising a bona fide business conducted, or a product sold on the premises shall be taken down and removed by the owner, agent or person having the beneficial use of the premises upon which such sign may be erected within ten (10) days after further written notifications from the Construction Official, and, upon failure to comply with such notice within the time specified in such order, the Construction Official shall have the power to remove the sign or cause the same to be removed without further notice, but at the expense of the owner of the premises. Any expense incurred in connection with such removal shall become a lien on the premises in the manner prescribed by law.

§34-18 NONCONFORMING USES AND STRUCTURES.

§34-18.1 Continuation of Nonconforming Use or Structure.

Any lawful nonconforming use which existed at the time of the passage of this chapter may be continued and no existing use, building or structure designed, arranged, intended or devoted to a nonconforming use may be reconstructed or structurally altered, except when changed to a conforming use and in accordance with the following regulations:

a. The structural alterations made in such buildings shall in no case exceed fifty (50%) percent of the true value of the buildings, nor shall the building be enlarged, unless the use therein is changed to a conforming use; provided, however, that where a building meets the use requirements of this chapter and is nonconforming because of height and area regulations, structural alterations made in such buildings may exceed fifty (50%) percent of the true value, provided the height and area requirements are not further violated.

b. A nonconforming use changed to a conforming use may not hereafter be changed back to a nonconforming use.

c. A structure or use of land which is nonconforming in use shall not be enlarged or extended except as provided under this chapter. A building or use of land which is nonconforming in a manner other than use may be extended or enlarged provided that the nonconformance is not further increased.

d. Nothing in this chapter shall require any change in plans, construction or designated use of a structure for which a building permit has been heretofore issued when construction has been diligently prosecuted and completed within one (1) year of the effective date of this chapter.*

e. Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect the

time of the effective date of this chapter.

f. Normal maintenance and repair of a structure containing a nonconforming use is permitted, provided that it does not extend the area or volume of space occupied by the nonconforming use and does not increase the number of dwelling units.

g. Nothing in this chapter shall prevent the strengthening or restoring to a safe or lawful condition any part of any building or structure declared unsafe or unlawful by the Construction Official and/or other authorized State or Borough Official.

h. Any existing single-family residential dwelling with a permitted use located on a conforming lot which violates any yard requirements may have additions to the principal building and/or construct an accessory building without an appeal for a variance, provided the total permitted building coverage is not exceeded and the accessory building and/or addition does not violate any requirements of this chapter or exacerbate any existing or nonconforming yard requirement.

i. Any pre-existing nonconforming two-family residential dwelling located on a conforming lot may construct one (1) deck with a deck floor elevation not higher than the floor elevation of the first floor dwelling without an appeal for a variance; provided that (1) the permitted building coverage is not exceeded; (2) all yard and setback requirements are complied with; (3) the deck shall be constructed of a material and in such a manner that shall allow water to pass through the floor of said deck; (4) that said deck shall be open to the elements beneath the floor; and (5) that there shall be no roof over the deck.

j. A nonconforming use shall be considered abandoned if it is terminated by the owner, if a nonconforming use involving a structure is discontinued for twelve (12) consecutive months; or if a nonconforming use of land without structure(s) ceases for a period of six (6) months. The subsequent use of the abandoned structure and/or land shall be in conformity with this chapter.

§34-18.2 Restoration of Existing Buildings.

a. Nothing in this chapter shall prevent the restoration of a nonconforming building or use where less than seventy-five (75%) percent of the existing area of such building or structure destroyed by fire, explosion, act of God or act of public enemy or prevent the continuance of the use of such building or part thereof as such as existed at the time of such destruction of such building or part thereof or prevent a change of such existing use under the limitations provided in this chapter; but any building totally destroyed in the manner aforesaid may be reconstructed and thereafter used only in such a manner as to conform to all the provisions of this chapter. When seventy-five (75%) percent or more of the existing area of a nonconforming building or structure is destroyed by fire or other casualty or an act of God, the use of such nonconforming building or structure shall thereafter be terminated.

b. The owner of any nonconforming use that is partially destroyed as above mentioned must apply for a construction permit to rebuilding the nonconforming use within twelve (12) months from the time of destruction. If the application to rebuilding the nonconforming use is filed after the above-mentioned twelve-month period, a construction permit shall only be issued for a conforming use.

§34-19 PERFORMANCE STANDARDS.

§34-19.1 Performance Standards Established.

a. All industrial, commercial, office, business, planned, residential development and multifamily residential uses are subject to the following performance standards and regulations, and to the applicable sections of Chapter XXXII, Site Plan Review. Other uses, existing or proposed, which the Construction Official has reasonable grounds to believe violate these

performance standards shall be subject to the provisions of this section.

b. Any application for a building permit for a use which shall be subject to performance standards shall be accompanied by a statement by the owner of the subject property that the use will be operated in accordance with the performance standards set forth herein.

c. Continued compliance with performance standards is required and enforcement of continued compliance with these performance standards shall be enforced by the Construction Official.

d. *Performance Standards.*

1. Air, Water and Environmental Pollution. No use shall emit heat, odor, dust, gases, vibrations, noise or any other pollutant into the ground, water or air that exceeds the most stringent, applicable State of New Jersey Department of Environmental Protection and Federal Environmental Protection Administration regulations and criteria. No permit shall be issued for any use where a State and/or Federal permit is required until the State and/or Federal agencies have ascertained and approved the level and quality of emission control, and level of monitoring to be conducted.

2. Storage and Waste Disposal. No materials shall be deposited so they can be transferred off the lot, directly or indirectly, by natural forces such as precipitation, surface water, evaporation or wind. All materials which may create a pollutant or be a safety and health hazard shall be stored indoors and be enclosed in appropriate containers to eliminate such pollutant or hazard.

3. There shall be no discharge at any point of treated or untreated sewage or industrial waste into any stream, lake, reservoir or into the ground of any material which may contaminate the water supply or endanger human health and welfare. No industrial waste shall be discharged into any system, nor shall any wastes be discharged in the public sewer system which are dangerous to the public health and safety.

4. Effluent shall at all times comply with the following standards:

- (a) Maximum five (5) day biochemical oxygen demand: five (5) parts per million.
- (b) Maximum quantity of effluent: ten (10%) percent of minimum daily stream flow.
- (c) Maximum five (5) day biochemical oxygen demand after dilution (BOD of effluent multiplied by quantity of effluent divided by quantity of stream flow); twenty-five hundredths (0.25) part per million.
- (d) Maximum total solids: five thousand parts per million.
- (e) Maximum phenol: one-hundredths (0.01) part per million.
- (f) No effluent shall contain any other acids, oils, dust, toxic metals, corrosive or other toxic substances in solution or suspension which would create odors, discolor, poison or otherwise pollute in any way.

5. No flammable or explosive substance shall be stored on a property except under conditions approved by the Midland Park Fire Official pursuant to the Fire Safety Act.

6. All activities shall be carried on only in structures which conform to the standards of the National Board of Fire Underwriters or the Borough Building Code or Fire Prevention Code, whichever is the more restrictive. All operations shall be carried on and explosive raw materials, fuels, liquids and finished products shall be stored in accordance with the standards of said Board of Fire Underwriters.

7. There shall be no noise emanating from the operating or use measured from any

point on the property line of the lot on which an industrial operation is located which shall exceed the values given in the following table in any octave band of frequency. The sound pressure shall be measured with sound level meters and/or analyzers conforming to the United States of America Standard Specification for Octave, Half-Octave and Third-October Band Filter Sets, S1.11-1966, or latest revision, published by the United State of America Standards Institute, New York, New York.

<i>Octave Band Center Frequency (cycles per second)</i>	<i>Sound Pressure Level Decibels (re 0.0002 dyne/cm)</i>
31.5	59
63	58
125	57
250	50
500	45
1000	40
2000	37
4000	33
8000	29

8. For objectionable noises due to intermittence, beat frequency or hammering, or if the noise is not smooth and continuous, or for any noise that takes place between 10:00 p.m./and 8:00 a.m. corrections shall be made to the above table by subtracting five (5) decibels from each of the decibel levels given.

9. There shall be no direct or sky-reflected glare exceeding five-tenths (0.5) foot candle measurable beyond the property line of the lot occupied by such use when adjacent to or within a residential zone. This regulation shall not apply to lights used at the entrance or exit of service drives.

10. Emission of odorous matter shall be below odor threshold concentrations at the lot line and at the point of maximum ground level concentration of this point is beyond the lot line. Recognized compilations of odor threshold concentrations may be used as standards of granting permits, but for an established use the actual detect ability of odor shall be the standard. Odor threshold compilations include Air Pollution Control Association Paper 68-131 (1968); Table III, Chapter 5, of Air Pollution Abatement Manual, Manufacturing Chemists Association, Washington, 1951; and U.S. Bureau of Mines Technical Paper 480.

11. Dust, dirt, fly ash and other particulate shall be controlled so that no such emission will cause damage to human health, animals, vegetation or other property or cause any excessive soiling beyond the lot line of the source use. There shall be no emission of any solid or liquid particulate matter in excess of fifteen-hundredths (0.15) grains per dry standard cubic foot of stack gas, corrected to twelve (12%) percent CO₂. Particulate emission determinations shall be made according to standards of the New Jersey Department of Environmental Protection and the United States Environmental Protection Agency, whichever standards are greater.

12. Fugitive dust shall be held to a minimum by use of good housekeeping practices and other appropriate control techniques.

13. There shall be no emission of smoke or other visible atmospheric pollutant to give a plume equivalent opacity in excess of fifteen (15%) percent. Opacity readings may be made

visually by a trained observer or by a stack mounted opacity meter. Steam plumes are exempt from this limit, but steam may not be used to mask other emissions.

14. Under no circumstances shall any use emit noxious, toxic or corrosive fumes or gases. Reference shall be made to Table I, Industrial Hygiene Standards, Maximum Allowable Concentrations, Chapter 5, of the Air Pollution Abatement Manual for determination of toxic pollutants to be prohibited.

15. Radioactivity shall not be emitted to exceed quantities established as safe by the United States Bureau of Standards, as amended from time to time, as well as standards as adopted by the New Jersey Department of Environmental Protection, as amended from time to time, whichever are more restrictive. No electrical disturbances, except from domestic household appliances, shall adversely affect the operation at any point of any equipment other than that of the creator of such disturbance.

§34-20 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

§34-20.1 INTENTIONALLY OMITTED

§34-20.2 Applicability.

a. *New Towers and Antennas.* All new towers or antennas in the Borough of Midland Park shall be subject to these regulations, except as provided in paragraphs b. and c. of this subsection.

b. *Amateur Radio Station Operators/Receive-Only Antennas.* This section shall not govern the installation of any antennas, owned and operated by an amateur radio operator or that is used exclusively for receive-only antenna or for private noncommercial purposes or the installation of any antenna by a commercial entity for use in its operations where transmission is not made or provided to third parties for payment or on a profit basis, which shall be regulated elsewhere in the Code of the Borough of Midland Park.

c. *Pre-Existing Towers or Antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of subsection 34-20.3f. and 3g, absent any enlargement or structural modification of the addition of any structures, including additional antennas.

d. *AM Array.* For purposes of implementing this section, an AM array, consisting of one (1) or more tower units and supporting ground system functions as one (1) AM broadcasting antennas, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

§34-20.3 General Requirements.

a. *Principal or Accessory Use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

b. *Lot Size.* For purposes of determining whether the installation of a tower or antenna complies with zone development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

c. *Inventory of Existing Sites.* Each applicant for an antenna and/or tower shall provide to the Zoning Officer an inventory of all existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the Borough of Midland Park or within one (1) mile of the border thereof, including specific information about the ownership, location, height, and design of each tower. The Zoning Officer may share such information with other applicants applying for approvals under this section or other organizations seeking to locate antennas within

the jurisdiction of the Borough of Midland Park, provided, however that the Zoning Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

d. *Aesthetics.* Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

e. *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

f. *State or Federal Requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antenna into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

g. *Building Codes; Safety Standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Borough of Midland Park concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

h. *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Borough of Midland Park irrespective of municipal and County jurisdictional boundaries.

i. *Nonessential Services.* Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

j. *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Borough of Midland Park have been obtained and shall file a copy of all required franchises with the Zoning Officer.

k. *Public Notice.* For purposes of this section, any conditional use request, variance application, site plan application or appeal of a decision of an administrative officer shall require

public notice in accordance with the requirements of N.J.S.A. 40:55D-12.

- l. *Signs.* No signs shall be allowed on an antenna or tower, except for safety signs.
- m. *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection 34-20.8.
- n. *Multiple Antenna/Tower Plan.* The Borough of Midland Park encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- o. *Maximum Height.* The maximum height of new towers shall be:
 1. For single user, up to ninety (90) feet in height.
 2. For two (2) users, up to one hundred twenty (120) feet in height.
 3. For three (3) or more users, up to one hundred fifty (150) feet in height.

§34-20.4 Permitted Uses.

- a. *General.* The uses listed in this subsection are deemed to be permitted uses and shall not require Planning or Zoning Board formal approval, except that an application for a use permit and a waiver of site plan may be filed with the Approving Authority, if required by the Zoning Officer or Construction Code Official.
- b. *Permitted Uses.* The following uses are specifically permitted: Antennas or towers located on property owned, leased, or otherwise controlled by the Borough. However, the Borough may, as a condition of such lease, require site plan approval. The decision to extend such leases to an applicant shall be vested solely with the municipality, and shall not be governed by this section. All other uses not specifically permitted shall be deemed prohibited.

§34-20.5 Site Plan Approval and Permits.

- a. The following provisions shall govern the issuance of a site plan approval for towers or antennas by the Approving Authority:
 1. Site plan approval shall be required for the construction of a tower or the placement of an antenna in all zoning districts, in addition to any other approvals which may be required by law.
 2. An application for site plan approval under this section shall be subject to the procedures and requirements set forth in Chapter 32, Site Plan Review of the Borough Code, except as modified by this section.
 3. In granting site plan approval, the Approving Authority may impose such conditions which it concludes are necessary to minimize any adverse impact of a proposed tower on adjoining properties. Any information of an engineering nature or details submitted by the applicant, whether civil, mechanical or electrical in nature, shall be certified by a licensed professional engineer.
- b. An applicant seeking site plan approval for a tower or antenna shall submit the following information:
 1. A scaled site plan clearly indicating the location, type and height of the proposed tower or antenna, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master classification of the site and all properties within the applicable separation distances set forth in Table I of this subsection, adjacent roadways proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and antenna, and any other structures, topography, parking and other information deemed by the Approving Authority to be necessary to assess compliance with this section.
 2. Legal description of the parent tract and leased parcel (if applicable).

3. The setback distance between the proposed tower and antenna and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

4. The separation distance from other towers/antennas described in the inventory of existing sites submitted pursuant to paragraph d. shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s) and antenna, if known.

5. A landscape plan showing specific landscape materials.

6. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

7. A description of compliance with the requirements of this chapter, and applicable Federal, State or local laws.

8. Towers Only. A notarized statement by the applicant as to whether construction of a tower will accommodate collocation of additional antennas for future users.

9. Identification of the entities providing the backhaul network for the owner(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

10. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

11. A description of the feasible location(s) of future towers or antennas within the Borough of Midland Park based upon existing physical, engineering, technical or geographical limitations in the event the proposed tower is erected.

12. A visual study depicting where, within a three (3) miles radius any portion of the proposed tower could be seen. If the application concerns an antenna on an existing structure, sign measurements to the point closest to the structure wherein a person standing at grade could first observe the antenna shall be provided for all four (4) building elevations.

13. A statement of intent on whether excess space will be leased, and how much of the structure's basement or common internal area has been made available for the storage of equipment accessory to the antenna.

c. *Criteria for Granting Site Plan Approval for Towers.* In addition to any standards for consideration of site plan applications pursuant to, if required, by the Borough Code, the Approving Authority shall consider the following factors in determining whether to grant site plan approval provided that the Approving Authority may waive or reduce the requirements of one (1) or more of the following criteria if the Approving Authority determines that the goals of this section are better served thereby:

1. Height of the proposed tower and antenna;
2. Proximity of the tower/antenna to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress; and
8. Availability of suitable existing towers, other structures, or alternative

technologies not requiring the use of towers or structures, as discussed in paragraph d. of this subsection.

d. *Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.* No new tower or antenna shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Approving Authority that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following (although nothing should be constructed to infer that meeting one, some, or all of the following shall entitle the applicant to approval):

1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

e. *Setbacks.* The following setback requirements shall apply to all towers for which a conditional use permit is required; provided, however, that the Approving Authority may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:

1. Towers must be set back a distance equal to at least seventy-five (75%) percent of the height of the tower from any adjoining lot line.
2. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
3. No tower shall exist within required buffer areas, if adjacent to residential zones and as prescribed under local ordinance.

f. *Separation.* The following separation requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the Approving Authority may reduce the standard separation requirements if the goals of this ordinance would be better served thereby.

1. Separation from off-site uses/designated areas.
 - (a) Tower separation shall be measured from the base of the tower to the lot

line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

(b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

TABLE 1 - Required Separation Distances

Off-site Use/Designated Area	Separation Distance
Residential, schools or house of worship (1)	200 feet or 300% height of tower whichever is greater
Vacant single-family residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired.	200 feet or 300% height of tower whichever is greater.
Vacant unplatted residentially zoned lands (2)	200 feet or 300% height of tower whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

Notes: (1) Including nursing homes and other similar uses wherein people are housed or receive care at least 8 hours per day.

(2) Includes any unplotted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

2. Separation distances between towers.

(a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

TABLE 2 - Existing Tower Types

	<i>Lattice</i>	<i>Guyed</i>	<i>Monopole 50 ft. in Height</i>	<i>Monopole Less than 50 ft. in Height</i>
Lattice	5,000	5,000	1,500	1,000
Guyed	5,000	5,000	1,500	1,000
Monopole 50 ft. in Height	1,500	1,500	1,500	1,000
Monopole Less Than 50 ft.	1,000	1,000	1,000	1,000

g. *Security Fencing.* Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

§34-20.6 Buildings or Other Equipment Storage.

a. *Antennas Mounted on Structures or Rooftops.* The equipment cabinet or structure used in association with antennas shall comply with the following:

1. The cabinet or structure shall not contain more than one hundred (100) square feet of gross floor area or be more than ten (10) feet in height. In addition, for buildings and structures which are less than forty (40) feet in height, the related unmanned equipment structure, shall be located on the ground and shall not be located on the roof of the structure.

2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structure shall not occupy more than ten (10%) percent of the roof area.

3. Equipment storage buildings or cabinets shall comply with all applicable building codes.

b. *Antennas Mounted on Utility Poles, Light Poles or Towers.* The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In a front or side yard provided the cabinet or structure is not greater than six (6) feet in height or one hundred (100) square feet of gross floor area and the cabinet/structure is located a minimum of seventy-five (75) feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least forty-two (42) to forty-eight (48) inches and a planted height of at least thirty-six (36) inches.

2. In a rear yard, provided the cabinet or structure is no greater than eight (8) feet in height or one hundred twenty (120) square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least forty-eight (48) inches.

3. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet

by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least seventy-two (72) inches.

4. Emergency generators shall be located below grade and suitably soundproofed so that noise volumes measured at all property lines do not exceed ambient levels. A nighttime restriction of fifty (50) decibels measured at all lot lines shall be imposed.

c. *Equipment Storage in a Structure's Basement.* Where an applicant proposes to store equipment, structures or cabinets required to operate an antenna within the confines of the structure wherein the antenna is to be located, the applicant need only make application for a building permit for this use, which shall be granted so long as in conformance with all construction codes. The applicant must indicate, to the Approving Authority, why this option is not available from a construction standpoint.

§34-20.7 Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Borough of Midland Park notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Borough may condition the issuance of any permit to construct, demolish or remove a tower or antenna on the posting of an appropriate performance

bond or other suitable guarantee in a face amount of not less than one hundred twenty (120%) percent of the cost (as determined by the Approving Authority) of such removal, grading and restoration to a state required under all applicable Borough ordinances, including but not limited to the Borough Property Maintenance Code.

§34-20.8 Existing Towers.

a. Rebuilding damaged or destroyed nonconforming antennas. Nonconforming towers or antennas that are damaged or destroyed may not be rebuilt without having to first obtain site plan approval and a conditional use permit and shall be required to meet the separation requirements specified in Table 1. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified.

§34-21 ENFORCEMENT, VIOLATIONS AND PENALTIES.

§34-21.1 Zoning Officer.

a. The provisions of this chapter of all of the rules, conditions and requirements adopted or specified pursuant thereto, shall be enforced literally by the Zoning Officer. Nothing in this chapter shall prevent any property owner or resident of the Borough from availing themselves of any lawful remedy in preventing or abating any violation of any provision of this chapter.

b. It shall be the duty of the Zoning Officer to investigate any violation of this chapter coming to his attention, whether by complaint for from his own personal knowledge or observation. Where any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of any provision of this chapter, the Zoning Officer shall serve notice upon the owner or person of a violation of this chapter, either personally or by certified mail, to remove said violation within ten (10) days. If after ten (10) days the violation still exists, the Zoning Officer shall:

1. Issue a summons returnable in the Municipal Court and file a complaint against the owner, its agent, or any person or entity causing the violation, and shall serve notice thereof in the manner prescribed by law, and/or

2. Upon the express authority of the Borough Council and with the advice and assistance of the Borough Attorney, file in the Superior Court a complaint to terminate said violation.

§34-21.2 Duties of the Zoning Officer.

a. The Zoning Officer or his duly authorized assistant shall have the right to enter any building or enter upon any land at any reasonable hour as is essential in the execution of their duties, provided that:

1. The consent of the owner or occupant is first obtained or applicable law permits entry onto property without such consent.

2. The Zoning Officer or his duly authorized assistant displays proper identification upon commencing an inspection.

3. Unless otherwise permitted by law, the inspection shall be commenced in the presence of the owner or his representative or tenant.

b. The Zoning Officer shall maintain files and records of all applications for building permits and plan submitted therewith and for zoning certificates issued by him, with notations of all special conditions involved. He shall keep a record of every identifiable complaint of a

violation of any of the provisions of this ordinance and of the action taken consequent of each such complaint. These files and records shall be public records, open to public inspection.

c. The Zoning Officer shall report to the Council monthly, summarizing for the period since his last previous report all zoning certificates issued by him. The Council may request and shall be furnished with information regarding all complaints of violations and the action taken by him consequent thereto.

§34-21.3 Zoning Certificate.

a. A zoning certificate shall be secured from the Zoning Officer prior to the construction, erection or alteration of any building or structure, except a one-family dwelling; of any parking area not accessory to a single-family dwelling; or of any fence of two (2) feet in height or more or of any change in occupancy of any nonresidential premises. A construction permit issued in accordance with the New Jersey Uniform Construction Code shall not satisfy the requirements of this section. The fee for each such zoning permit shall be as set forth in the fee schedule.

b. All requests for a zoning certificate shall be made in writing by the owner, or authorized representative, and shall contain a statement of the use or intended use of the buildings, structure or land and shall be accompanied by, among other things which the Board of Adjustment, Planning Board or Zoning Officer may require, a plan and elevation of the building and a plot plan drawn to scale, showing the proposed building in its exact relation to lot and street lines, and by evidence satisfactory to the Zoning Officer to the effect that the line of the bounding street or streets have been accurately located and staked on the ground.

c. No zoning certificate permit shall be issued for the construction or alteration of any building upon a lot without access to a street.

d. No zoning certificate shall be issued for any new structure, for any addition to an existing structure or for any change in use or occupancy of a structure unless: (1) such certificate has been approved by the Planning Board, provided that the property is located in the I-1 or I-2 zone, (2) if required by law, a site plan shall have first been approved by the Planning Board or Board of Adjustment, in accordance with the terms of Chapter XXXII, Site Plan Review.

Notwithstanding the foregoing, Planning Board or Board of Adjustment approval of a zoning certificate or site plan approval shall not be required prior to the issuance of a zoning certificate for any new structure or addition to an existing structure if such structure is used or to be used solely as a single or two family dwelling or is an accessory thereto.

e. No zoning certificate shall be issued for a building or structure to be used for any conditional use in any district unless and until such approval has been duly granted by the Planning Board or Board of Adjustment.

f. The zoning certificate application and all supporting documentation shall be made in duplicate. On the issuance of a building permit the Zoning Officer shall return one (1) copy of all filed documents to the applicant. If the zoning certificate must be approved by the Planning Board pursuant to paragraph d. above, the applicant shall submit twelve (12) copies of all required materials.

g. The Zoning Officer shall, within twenty (20) working days after the filing of a complete and properly prepared application approved, where necessary, by the Planning Board or Board of Adjustment, either issue or deny a building permit. If a building permit is denied, the Zoning Officer shall state in writing to the applicant the reasons for such denial.

h. Every zoning certificate shall expire if the work authorized has not commenced within six (6) months after the date of issuance, or has not been completed within two (2) years from such date. If no zoning amendments or other codes or regulations affecting such property have

been modified and no publication of notice of a public hearing on such amendment or code regulations have occurred in the interim, the Zoning Officer may authorize in writing the extension of either of the above periods for an additional six (6) months, as per schedule, after which no further work is to be undertaken without a new zoning certificate.

i. *Procedure for Construction and Occupancy Permits.* An application for any construction permit or certificate of occupancy for industrial use in the Industrial District shall be submitted to the Construction Official in duplicate on forms prepared by the Planning Board.

The applicant shall also submit in duplicate all plans of the proposed construction and development, including a description of the proposed machinery, operation and products, as well as an affidavit by the applicant acknowledging his understanding of the applicable performance standards and agreement to conform with same at all times. If there is any reasonable doubt as to the likelihood of the intended use conforming to the performance standards, the Planning Board shall request a deposit of five hundred (\$500.00) dollars to be submitted with the application which will be used to defray the cost of the special reports required to process it. The Planning Board shall refer the application for investigation and report to one (1) or more expert consultants selected by the Board as qualified to advise on conformance to the required performance standards. Such consultant or consultants shall make their report within thirty (30) days after his or their receipt of such application. A copy of such report shall be promptly furnished to the applicant. At the next regular meeting of the Board or within thirty (30) days of receipt of consultant's report, whichever comes sooner, the Board shall render a decision in the form of a written report regarding said application.

Any permit authorized and issued shall be conditioned on, among other things, the applicant's completed buildings and installations, in operation, conforming to the applicable performance standards and the applicant's paying fees in excess of five hundred (\$500.00) dollars, if needed, to cover the expert's above-mentioned reports. All monies not used to pay for the services of the expert consultant or consultants deemed reasonable and necessary by the Board for advice shall be returned to the applicant at the time the Board renders the written decision. The Construction Official and appropriate subcode officials shall investigate any alleged violation of the performance standards and, if there are reasonable grounds to believe that a violation exists, shall notify the Planning Board and Mayor and Council.

§34-21.4 Temporary Permits.

A temporary zoning certificate may be issued by the Zoning Officer for a specified period not to exceed one (1) year for storage of building supplies and machinery and assembly of building materials ancillary to a lawfully approved construction project on the same premises; provided that the issuance of such temporary certificate shall be conditioned upon agreement by the owner to remove any such supplies and materials upon the earlier of expiration of the certificate or thirty (30) days following completion of the project. (Ord. #13-02 § 20.4)

§34-21.5 Violations and Penalties.

a. Any owner or agent, and any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof or who shall erect, structurally alter, enlarge, rebuild or move any building or buildings or any structure, or who shall put into use any lot or land in violation of any detailed statement or plan submitted hereunder, or who shall refuse reasonable opportunity to inspect any premises, shall be liable to a fine not exceeding one thousand two hundred fifty (\$1,250.00) dollars or imprisonment or both as stated in Chapter I, Section 1-5, General Penalty of the Revised General Ordinances of Midland Park. Each and every day such violation continues after the expiration of

an abatement notice or after initial construction, as the case may be, shall be deemed a separate and distinct violation.

b. The owner of any building or structure, lot or land or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of such violation shall each be guilty of a separate misdemeanor and, upon conviction thereof, shall each be liable to the fine or imprisonment or both specified in paragraph a. above.

§34-22 Severability.

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

§34-23 Inconsistent Ordinances Repealed.

All ordinances or parts or ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

§34-24 Effective Date.

This Ordinance shall take effect immediately upon final passage and publication as provided by law.

SCHEDULE I

**Zoning District Area, Bulk and Yard Requirements
Borough of Midland Park
(Subsection §34-2.2)**

Dis- trict	Use	Minimum Area Requirements			Maximum Bulk Requirements				Minimum Yard Requirements			
		Lot Area (sq. ft.)	Lot Width (ft.)	Lot Depth (ft.)	Principal Building (ft.)	Height (stories)	Building Coverage (%)	Improved Lot Coverage (%)	Front Yard (ft.)	Side Yard One Side (ft.)	of Both	Rear Yard (ft.)
R-1	Single	12,500	100	125	32	2.5	30	45	25 ⁽¹⁾	12		25
R-2	Garden Apts.	70,000	200	230	30	2.5	25	35	30	15		30
R-3	Age Restrict- ed Resi- den- ce	See Secti- on 34-6	34-6	—	42	4	40	80	25	25		25
B-1	Busines- s	6,000	60	100	32	2.5	30	75	25	12 ⁽²⁾		25
B-2	Professi- onal	12,500	100	125	36	3	30	40	30	12 ⁽²⁾		25
B-3	Retail Office	10,000 25,000	100 200	100 125	36 36	2.5 2.5	30 30	75 75	25 25	24 ⁽²⁾ 12 ⁽²⁾		25 25
I-1	Industri- al	87,120	200	—	36	3	30 ⁽⁴⁾	80	50	25 ⁽²⁾		50
I-2	Industri- al	—	—	—	36	3	40	80	25	15 ⁽²⁾		25 ⁽³⁾
AS FD	Attache- d Single	20,000	200	—	38		30	65	25	15 ⁽²⁾		30
MF O-1	Multi- Family 1	.85a cr			36	3	40	60	25	25		25
MF O-2	Multi- Family 2	1.5 acr			36	3	40	60	25	25		25

(1) Subject to 34-4.5b

(2) All non-residential lots adjacent to any residential zoning district, the side yard requirement shall be the greater of 20 feet or the height of the building on the non-residential lot.

(3) A rear yard of only 10 feet is required on properties in the I-2 Zoning District where such properties' rear yards are adjacent to the railroad right-of-way.

(4) Subject to §34-10.1 (b) 7 - The total floor area of all buildings on a lot shall not exceed thirty percent (30%) of the area of the lot.

R-1	Single	12,500	100	125	32	2.5	3	45	25 ⁽¹⁾	12	25
R-2	Garden	70,000	200	230	30	2.5	2	35	30	15	30

R-3	Age Restrictive	See Sectio	34-6	—	42	4	4	0	80	25	25	25
B-1	Business	6,000	60	100	32	2.5	3	75	25	12	25	
B-2	Professional	12,500	100	125	36	3	3	40	30	(2)	25	
B-3	Retail	10,000	100	100	36	2.5	3	75	25	24	25	
	Office	25,000	200	125	36	2.5	3	75	25	12	25	
I-1	Industrial	87,120	200	—	36	3	3	80	50	25	50	
I-2	Industrial	—	—	—	36	3	4	80	25	15	25 ⁽³⁾	
ASFD	Attached	20,000	200	—	38	38 ⁽⁵⁾	3	65	25	15	30	
MFO1111	Multi-	.85acr			36	3	4	60	25	25	25	
MFO2	Multi-	1.5 acr			36	3	4	60	25	25	25	

(1) Subject to 34-4.5b

(2) All non-residential lots adjacent to any residential zoning district, the side yard requirement shall be the greater of 20 feet or the height of the building on the non-residential lot.

(3) A rear yard of only 10 feet is required on properties in the I-2 Zoning District where such properties' rear yards are adjacent to the railroad right-of-way.

(4) Subject to §34-10.1 (b) 7 - The total floor area of all buildings on a lot shall not exceed thirty percent (30%) of the area of the lot.

(5) Subject to §34-11a3d - Maximum building height shall not exceed two (2) residential stories with a maximum building height of thirty-eight (38) feet above a single garage level.

SCHEDULE II OFF-STREET PARKING REQUIREMENTS

Borough of Midland Park

(Subsection §34-16.2)

	Required Spaces			
	# of Parking Spaces per Service Station ⁽¹⁾	1 Parking Space per ___ Seats	1 Parking Space per ___ Sq.Ft.	Total Req'd Based on ⁽²⁾
Office	-	-	250	Sum of
Industrial, Manufacturing or Laboratory	-	-	400	Sum of
Retail ³				
First 2,000 SF	-	-	200	Sum of
Every SF above 2000	-	-	250	Sum of
Warehouse	1 ⁽⁴⁾	-	-	Sum of
Bowling Lanes	4	-	-	Sum of
Churches and Other Places	-	3 ⁽⁵⁾	-	Sum of
Community Buildings Social Halls, Places of Assembly	-	2	75	Greater of
Funeral Home and Mortuaries	15	-	-	Sum of
Motor Vehicle Service ⁹	4	-	-	Sum of
Community Residences and Shelters	1 ⁽⁴⁾	2 ⁽⁶⁾	-	Sum of
Home Occupations ⁴	1 ⁽⁴⁾	-	-	Sum of
Physical Fitness or Therapy	-	-	200	Sum of
Professional Office in One Family Dwelling ⁷	1 ⁽⁴⁾	-	200	Sum of
Residential Dwelling ⁷	2	-	-	Sum of
Schools ⁸				
Elementary	1	-	-	Sum of
High School, Business or College	1.5	1	-	Sum of
Theaters	-	3	-	Sum of
Wholesale Establishments	-	-	600	Sum of
Nursing Home	1	-	-	Sum of
Medical or Veterinary Office	-	-	100	Sum of
Eateries ³				
Restaurants	-	3	250	Sum of
Quick Serve /Deli / Takeout	2	2	250	Sum of
Banks and Financial ³	2	-	250	Sum of

Personal Services				
1 to 10 Service Stations	2	-	200	Sum of
Child Care Centers	1.5 ⁽⁴⁾	-	-	Sum of
Mixed Uses	Mixed uses in the same building shall be calculated as the sum of the individual uses.			
Other Uses Not Provided	To be determined by the Planning Board or Board of Adjustment			

Footnotes:

- 1 Service Station shall mean a discrete location where services are provided or a transaction is executed or Dwelling. For example, but not limited to, an interior bank teller window, ATM machine, a service desk, parlor, bowling lane and or barber/nail salon chair. Personal Service Stations shall include, but not limited to, nail salon stations, hair salon stations (chairs), waxing stations, barber chairs and therapeutic massage parlor rooms or tables.
- 2 Total shall either be the sum of all three ratios OR the greater of any one of the three
- 3 Any drive-through or drive-up windows shall have a minimum queuing line length of 150' from center of the first service area
- 4 Per Employee
- 5 Individual chairs or 1 per every 72 inches per lineal feet of benches for Churches and Places of Worship
- 6 1 space for every 2 residents
- 7 Garages excluded for spaces provided.
- 8 Teacher shall mean Service Station; Student shall mean Seat
- 9 Repair but not fueling station
- 10 Mixed Use Shared parking :
For Non-Residential Mixed Uses with more than 5 tenants and more than 2 different uses, the gross parking requirements shall be lessened by 10%
For Non-Residential Mixed Uses with more than 10 tenants and more than 4 different uses, the gross parking requirements shall be lessened by 25%

SCHEDULE III OFF-STREET LOADING REQUIREMENTS

(Subsection §34-16.3)

Land Use	Floor Area (Square Feet)	
	At which 1st berth is required	At which 2nd berth is required
Commercial:		
Wholesale	5,000	40,000
Retail	5,000	20,000
Service	5,000	40,000
Establishments		
Commercial	5,000	100,000
Recreation		
Restaurants	2,000	25,000
Office Buildings	5,000	75,000
Funeral Homes	10,000	100,000
Medical		
Industrial:		
Laboratory, Research	5,000	40,000

Manufacturing/Production	5,000	40,000
Warehouse	5,000	40,000
Institutional:		
Hospitals/Nursing	10,000	100,000
Homes		
Schools	10,000	100,000
Medical	5,000	40,000
Laboratory		

An additional berth shall be required for each additional number of square feet as indicated as required between the need for one and two berth intervals. In case of multiple use buildings, the amount of off-street loading required shall be equal to the sum of the parts.

Introduced by: Councilman Kruis

Seconded by: Councilman Damiano

At this time, **Mayor Shortway** opened the meeting to the public for any questions, comments, or concerns regarding Ordinance #08-21.

Miguel Garcia – 38 Van Blarcom Avenue - Asked what changes are being made? Acting Administrator Martin responded it is the whole ordinance that is being revamped.

Caller 1 – no comment

There being no further response, the **Mayor** closed the meeting to the public and called for a Roll Call Vote of Council.

Roll Call:	Councilman Damiano	Aye
	Councilman Kruis	Aye
	Councilman Sansone	Aye
	Councilwoman DeLuca	Aye
	Councilwoman Peet	Aye
	Council President Iannone	Absent

2. ORDINANCE #10-21

“AN ORDINANCE TO AUTHORIZE VARIOUS MUNICIPAL IMPROVEMENTS, ACQUISITIONS AND PROJECTS IN THE BOROUGH OF MIDLAND PARK, TO APPROPRIATE THE SUM OF \$303,973.28 TO PAY THE COST THEREOF, FROM THE CAPITAL IMPROVEMENT FUND.”

BE IT ORDAINED, by the Borough Council of the Borough of Midland Park, in the County of Bergen, New Jersey as follows:

Section 1. The following is to be funded from the Capital Improvement Fund and is hereby authorized for:

- 1. Fire**
 - Purchase Turnout gear
 - Purchase Fire hoses
 - SCBA bottle replacements
- 2. Department of Public Works**
 - 2021 Road Resurfacing Program
 - Reserve for Drainage projects
- 3. Building & Grounds**
 - Fire House exterior doors

4. Police

Portable police radios/accessories

Section 2. The sum of \$303,973.28 hereby appropriated to the payment of the cost of such acquisitions and improvements authorized and described in Section 1 hereof. Said sum so appropriated shall be met from the Capital Improvement Fund of the Borough.

Section 3. Said improvements are lawful capital improvements of the Borough having a period of usefulness of at least five (5) years. Said improvements shall be made as a general improvement, and no part of the cost has been nor shall be assessed against property specially benefited.

Section 4. The capital budget is hereby amended to conform with the provisions of this capital ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 5. This ordinance hereby incorporates the provisions of N.J.S.A. 40A:2-20.

Section 6. This ordinance shall take effect at the time and in the manner provided by law.

Introduced by: Councilwoman DeLuca

Seconded by: Councilman Sansone

At this time, **Mayor Shortway** opened the meeting to the public for any questions, comments, or concerns regarding Ordinance #10-21.

Caller 1 – no comment

There being no response, the **Mayor** closed the meeting to the public and called for a Roll Call Vote of Council.

Roll Call:	Councilman Damiano	Aye
	Councilman Kruis	Aye
	Councilman Sansone	Aye
	Councilwoman DeLuca	Aye
	Councilwoman Peet	Aye
	Council President Iannone	Absent

3. ORDINANCE #11-21

“A CAPITAL ORDINANCE TO AUTHORIZE ADDITIONAL FUNDS TO THE RESERVE FUND, FOR MUNICIPAL VEHICLES IN THE BOROUGH OF MIDLAND PARK, TO APPROPRIATE THE SUM OF \$30,000.00 FROM THE CAPITAL IMPROVEMENT FUND FOR THE FUTURE PURCHASE OF MUNICIPAL VEHICLES.”

BE IT ORDAINED, by the Borough Council of the Borough of Midland Park, in the County of Bergen, New Jersey as follows:

Section 1.

The acquisition of funding from the Capital Improvement Fund is hereby authorized for:

A. Midland Park Fire Department’s Reserve for a future apparatus, in the amount of \$30,000.00

Section 2. The sum of \$30,000.00 is hereby appropriated to the payment of the cost of such acquisition and improvement authorized and described in Section 1 hereof. Said sum so appropriated shall be met from the Capital Improvement Fund of the Borough.

Section 3. Said improvements are lawful capital improvements of the Borough having a period of usefulness of at least five (5) years. Said improvements shall be made as a general improvement, and no part of the cost which has been nor shall be assessed against property specially benefited.

Section 4. The capital budget is hereby amended to conform with the provisions of this capital ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by

the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 5. This ordinance hereby incorporates the provisions of N.J.S.A. 40A:2-20.

Section 6. This ordinance shall take effect at the time and in the manner provided by law.

Introduced by: Councilwoman Peet

Seconded by: Councilman Kruis

At this time, **Mayor Shortway** opened the meeting to the public for any questions, comments, or concerns regarding Ordinance #11-21.

Caller 1 – no comment

There being no response, the **Mayor** closed the meeting to the public and called for a Roll Call Vote of Council.

Roll Call:	Councilman Damiano	Aye
	Councilman Kruis	Aye
	Councilman Sansone	Aye
	Councilwoman DeLuca	Aye
	Councilwoman Peet	Aye
	Council President Iannone	Absent

4. ORDINANCE #12-21

“AN ORDINANCE TO AMEND CHAPTER 3 OF THE CODE OF THE BOROUGH OF MIDLAND PARK ENTITLED, “POLICE REGULATIONS” (CANNABIS)

BE IT ORDAINED by the Mayor and Council of the Borough of Midland Park, in the County of Bergen, and State of New Jersey as follows:

Section 1.

Chapter 3 of the Code of the Borough of Midland Park, Police Regulations, §3-16, be and is hereby amended to read as provided, together with Subsections thereafter:

§3-16. Prohibition of All Cannabis Establishments.

§3-16.1. All Classes of Cannabis Prohibited.

Pursuant to Section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Midland Park, except for the delivery of cannabis items and related supplies by a delivery service.

§3-16.2. Fines and Penalties.

Any person found guilty of violating the provisions of this Ordinance shall be subject to such fines and penalties as set forth in Section 1-5 of the Borough Code.

Section 2. Severability.

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

Section 3. Inconsistent Ordinances Repealed.

All ordinances or parts or ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 4. Effective Date.

This Ordinance shall take effect immediately upon final passage and publication as provided

by law.

Introduced by: Councilman Sansone

Seconded by: Councilwoman Peet

At this time, **Mayor Shortway** opened the meeting to the public for any questions, comments, or concerns regarding Ordinance #12-21.

Caller 1 – no comment

There being no response, the **Mayor** closed the meeting to the public and called for a Roll Call Vote of Council.

Roll Call:	Councilman Damiano	Aye
	Councilman Kruis	Aye
	Councilman Sansone	Aye
	Councilwoman DeLuca	Aye
	Councilwoman Peet	Aye
	Council President Iannone	Absent

CONSENT AGENDA:

All matters listed below are considered by the Borough Council to be routine in nature. There will be no separate discussion of these items. If any discussion is desired by the Borough Council, that item will be removed from the consent agenda and considered separately:

Resolution #109-21 – Void AP Checks

WHEREAS, due to inclement weather forecasted the day of our Memorial Day Parade on Saturday, May 28, 2021 the event was cancelled;

WHEREAS, the CFO issued the following payments for distribution on the day of event, and due to the cancellation the following checks need to be voided:

Military Transport Association	5/27/21	CK # 17691	\$500.00
Community Band of Waldwick	5/27/21	CK#17708	\$1,100.00

WHEREAS, the vendor; Community Band of Waldwick’s contract states that they will still receive \$500 in the event of cancellation, a replacement check will be processed through the June 10, 2021 bills list;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park that the above checks be voided.

Resolution #110-21 – Chapter 159 – Clean Communities Grant

WHEREAS, N.J.S. 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the Budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the Budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough of Midland Park has received a total of \$14,439.97 from the State of New Jersey and wishes to amend its 2021 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Borough of Midland Park hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Budget of the Year 2021 in the sum of \$14,439.97, which is now available as a revenue for:

Miscellaneous Revenue
Special Items of General Revenue Anticipated with Prior Written Consent

of the Director of the Division of Local Government Services:
Revenues Off-Set with Appropriations:
Clean Communities Grants

BE IT FURTHER RESOLVED, that a like sum of \$14,439.97 to be and the same is hereby appropriated under the caption of:

General Appropriation
Programs Off-Set by Revenues:
Clean Communities Grants

BE IT FURTHER RESOLVED, that the CFO did an electronic filing of this revenue to the Director of the Division of Local Government Services along with attachment.

Resolution #111-21 – Escrow Refunds – 21 4th Street, Midland Park Blk 25.09 Lt. 2.01

WHEREAS, a request has been brought before the Governing Body by the Certified Finance Officer to refund a balance of \$650.00 in escrow for private duty services paid by Teresa Buccisano; and

WHEREAS, the pre-payment for private duty services was unused and has been formally requested to be returned to;

Teresa Buccisano
28 Seminary Drive
Mahwah, NJ 07430

WHEREAS, final Engineering release has been given by Schwanewede/Hals Engineering on May 27, 2021, therefore the Construction Department is recommending the return of the following Performance escrow for Plot Plan/Soil Movement:

Teresa Buccisano	Acct. #T-20-300-496	\$4,564.00
21 4 th Street (Blk. 25.09, Lt. 2.01) Refund to: Teresa Buccisano 28 Seminary Drive Mahwah, NJ 07430		

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park that the Chief Financial Officer issue a check for the total funds in the above stated amounts to the above stated parties.

Resolution #112-21 - Resolution Authorizing the Borough of Midland Park Tax Collector to Prepare and Mail Estimated Tax Bills in Accordance with P.L.1994, C. 72

WHEREAS, the Bergen County Board of Taxation is unable to certify Midland Park's tax rate at this time and the Borough of Midland Park Tax Collector will be unable to mail the Borough's 2021 tax bills on a timely basis; and

WHEREAS, the Borough of Midland Park Tax Collector in consultation with the Borough of Midland Park Chief Financial Officer has computed an estimated tax levy in accordance with N.J.S.A. 54:4-66.3, and they have both signed a certification showing the tax levies for the previous year, the 2021 estimated tax rates and the range of permitted estimated tax levies.

NOW, THEREFORE, BE IT RESOLVED by the Governing body of the Borough of Midland Park, County of Bergen, State of New Jersey, as follows:

1. The Borough of Midland Park Tax Collector is hereby authorized and directed to prepare, and issue estimated tax bills for the Borough of Midland Park for the third quarter installment of 2021 taxes. The entire estimated tax levy for 2021 is hereby set at \$34,402,071.06 with 2021 estimated tax range between 95% and 105%
2. In accordance with law the third installment of 2021 taxes shall not be subject to interest until the later of August 10 or the twenty-fifth calendar day after the date the estimated tax bills were

mailed. The estimated tax bills shall contain a notice specifying the date on which interest may begin to accrue.

Resolution #113-21 Midland Park Fire Department Club Liquor License Renewal for the period July 1, 2021 – June 30, 2022

WHEREAS, Midland Park Fire Company has made application for renewal of its Club License # 0235-31-005-001 for premises located at 45 Witte Drive, Midland Park, Bergen County, New Jersey; and

WHEREAS, the Police Department has performed their investigation as per Borough Code 6-6 and at this juncture nothing precludes them from being issued their renewal.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park that such applications for the sale of alcoholic beverages as approved by State Statute and Ordinances of the Borough of Midland Park be and is hereby approved for premises located at, 45 Witte Drive, Midland Park, and;

BE IT FURTHER RESOLVED, that the Borough Clerk be and is hereby authorized to issue such license, upon payment of any fees, to Midland Park Fire Company, 45 Witte Drive, Midland Park, for the period July 1, 2021 to June 30, 2022.

Resolution #114-21 Arturo’s Restaurant Liquor License Renewal for the period July 1, 2021 – June 30, 2022

WHEREAS, Mariano Allegra, Arturo G Allegra Inc., t/a Arturo’s Restaurant, has made application for renewal of its Plenary Retail Consumption w/Broad Package Privilege License # 0235-32-003-010 for premises located at 41 Central Avenue, Midland Park, Bergen County, New Jersey; and

WHEREAS, the Police Department has performed their investigation as per Borough Code 6-6 and at this juncture nothing precludes them from being issued their renewal.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Midland Park that such applications for the sale of alcoholic beverages as approved by State Statute and Ordinances of the Borough of Midland Park be and is hereby approved for premises located at 41 Central Avenue, Midland Park, and;

BE IT FURTHER RESOLVED, that the Borough Clerk be and is hereby authorized to issue such license, upon payment of any fees, to Mariano Allegra, Arturo G Allegra Inc., t/a Arturo’s Restaurant, 41 Central Avenue, Midland Park, for the period July 1, 2021 to June 30, 2022.

Resolution #115-21 ACME Markets, Inc. “Pocket” Liquor License Renewal for the period July 1, 2021 – June 30, 2022

WHEREAS, The Acme Markets, Inc., has made application for renewal of its Plenary Retail Distribution Pocket License # 0235-44-001-006 for mailing address at 250 East Parkcenter Blvd., Boise, ID 83726; and

WHEREAS, the State of New Jersey Division of Alcohol Beverage Control has performed their investigation and at this juncture nothing precludes them from being issued their renewal.

BE IT FURTHER RESOLVED, that the Borough Clerk be and is hereby authorized to issue such pocket license to Acme Market, Inc., with a mailing address of 250 East Parkcenter Blvd., Boise, ID 83726.

Introduced by: Councilman Damiano

Seconded by: Councilwoman Peet

Roll Call:	Councilman Damiano	Aye
	Councilman Kruis	Aye
	Councilman Sansone	Aye
	Councilwoman DeLuca	Aye

Councilwoman Peet Aye
Council President Iannone Absent

RESOLUTIONS:

1. Resolution #108-21 – Bills List

WHEREAS, claims have been submitted to the Borough of Midland Park in the following amounts:

Current Fund ('20)	\$ 1,791.10
Current Fund	\$ 181,627.92
Dog Fund	\$ 368.40
Capital Fund	\$ 29,079.89
Trust Fund	\$ 1,985.93
TOTAL:	\$ 214,853.24

WHEREAS, such claims have been listed according to Department and account number with corresponding vouchers to be reviewed and approved by the Finance Committee; and,

WHEREAS, the CFO has determined that the funds have been properly appropriated for such purposes and are available, in the Borough of Midland Park and that the claims specified on the schedule attached hereto, following examination and approval by the Finance Committee, be paid and checks issued accordingly; and,

WHEREAS, claims have already been paid in the following accounts:

Current	May 28 th Payroll	\$ 194,223.44
Current	June School Taxes	\$1,826,745.92
Current	June Health Payments	\$ 84,035.96
Current	Mnl Ck: County of Bergen	\$ 10,413.97

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Midland Park that the claims totaling **\$2,330,272.53** approved and ratified respectively.

Introduced by: Councilman Damiano Seconded by: Councilwoman Peet

Roll Call: Councilman Damiano Aye
Councilman Kruis Aye
Councilman Sansone Aye
Councilwoman DeLuca Aye
Councilwoman Peet Aye
Council President Iannone Absent

MOTIONS:

1. **Mayor Shortway** made a Motion to Appoint Jaime R. Perez to fill an unexpired term of a Library Board Member with an expiration date of 12/31/24.

Introduced by: Councilwoman DeLuca Seconded by: Councilman Kruis

Roll Call: Councilman Damiano Aye
Councilman Kruis Aye
Councilman Sansone Aye
Councilwoman DeLuca Aye
Councilwoman Peet Aye
Council President Iannone Absent

OLD BUSINESS/NEW BUSINESS:

There was no Old Business to discuss.
There was no New Business to discuss.

PUBLIC COMMENT:

Once again, the **Mayor** opened the meeting to the public and the Council for any comments, questions, or concerns.

Amber Garcia – 38 Van Blarcom Avenue – spoke of what is needed to obtain the width of the road needed to make Habben Avenue a dead-end. Attorney Regan said a comprehensive plan for improvement of the area would be needed, as well as some research to figure out what is required for that street. She thanked the Governing Body for listening to her concerns and stated she and her husband are trying to be part of the solution, not just coming before the Council and complaining and they are trying to find a solution that will work for the businesses and the residents.

Ray Chapman – 225 Vreeland Avenue – good to be back to in-person meetings; gave a brief history of the Midland Park Board of Education donating books to New York City schools

Caller 1 – Cindy Mahoney – 46 Van Blarcom Avenue – called in to support the Garcia's

There being no further response and no further business to address, at 8:35 P.M., the following resolution was read by the Borough Attorney and adopted by the Council. The Borough Clerk stated no action will be taken and the Council convened into a Closed Session.

Resolution #115A-21 Closed Session Resolution

WHEREAS, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting; and

WHEREAS, the Governing Body of Midland Park has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public; and

WHEREAS, the regular meeting of this Governing Body will reconvene;

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of Midland Park will go into closed session for the following reason (s) as outlined in N.J.S.A. 10:4-12:

_____ Any matter which, by express provision of Federal Law, State Statute or Rule of Court shall be rendered confidential or excluded from discussion in public (Provision relied upon):

_____ Any matter in which the release of information would impair a right to receive funds from the federal government;

_____ Any matter the disclosure of which constitutes an unwarranted invasion of individual privacy;

_____ Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body (Specify contract): _____.

_____ Any matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed;

Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

_____ Any investigations of violations or possible violations of the law;

_____ Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer (If pending or anticipated litigation, the matter is: _____ contract

negotiations the nature of the contract and interested party is _____ in circumstances, if public disclosure of the matter would have a potentially negative impact on the Borough's position in the litigation or negotiation, this information may be withheld until such time that the matter is concluded or the circumstances no longer present a potential impact);

X Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting (Subject to the balancing of the public's interest and the employee's privacy rights under South Jersey Publishing, 124 N. J. 478, the employee(s) and nature of discussion is **Personnel – Economic Development Committee, Borough Administrator Position.**

_____ Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility;

BE IT FURTHER RESOLVED, that the Borough Council hereby declares that its discussion of the aforementioned subject(s) may be made public at a time when the Borough Attorney advises the Borough Council that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough, or any other entity, with respect to said discussion. That time is currently estimated as the time of said matter.

BE IT FURTHER RESOLVED that the Borough Council, for the aforementioned reasons, hereby declares that the public is excluded from the portion of the meeting during which the above discussion shall take place, and hereby directs the Borough Clerk to take the appropriate action to effectuate the terms of this resolution.

Introduced by: Councilman Sansone
Roll Call: Councilman Damiano
Councilman Kruis
Councilman Sansone
Councilwoman DeLuca
Councilwoman Peet
Council President Iannone

Seconded by: Councilman Kruis
Aye
Aye
Aye
Aye
Aye
Absent

Respectfully submitted,

Wendy Martin, R.M.C.
Borough Clerk