

VILLAGE OF SPENCER

ZONING ORDINANCE

UPDATED

NOVEMBER 17, 2010



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Preamble

An ordinance of the Village of Spencer, Ohio, enacted in accordance with the provisions of Chapter 713 of the Ohio Revised Code, dividing the Village into zones and districts, encouraging, regulating and restricting therein the location, construction, reconstruction, alteration and use of structures and land;

- promoting the orderly development of residential, business, industrial, recreation, and public areas;
- providing for adequate light, air and convenience of access to property by regulating the use of land and buildings and the bulk of structures in relationship to surrounding properties;
- limiting congestion in the public right-of-ways;
- providing for the health, safety and security of residents and visitors;
- providing the compatibility of different land uses and the most appropriate use of land;
- providing for the administration of this ordinance,
- defining the powers and duties of the administrative officers as provided hereafter, and
- prescribing penalties for the violation of the provisions in this ordinance or any amendment thereto, all for the purpose of protecting the public health, safety, comfort and general welfare; and for the repeal thereof,

Therefore, be it ordained by the Council of the Village of Spencer, State of Ohio.

Article 1 Title, Scope, Interpretation, and Enactment

Section 100 Title

This ordinance shall be known and may be cited to as the “Zoning Ordinance of the Village of Spencer.” The map which accompanies this Ordinance and which is hereby incorporated herein and which is made a part hereof, shall be referred to as the “Zoning Map”.

Section 110 Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this ordinance conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, laws, or with private restrictions placed upon property by covenant, deed or other private agreement, the most restrictive, or that imposing the higher standards shall govern.

Section 120 Separability Clause

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 130 Identification of the Zoning Map

The zoning map shall be identified by the signature of the Mayor, shall be attested by the Village Clerk, and shall be bearing the seal of the Village.

Section 140 Repeal of Conflicting Ordinance

All ordinances or parts of ordinances in conflict with the zoning ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

Section 150 Effective Date

This ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

Passed on: _____
Date

Mayor

Attest: _____
Clerk

Article 2 Definitions

Section 200 Interpretation of Terms or Words

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

- A. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- B. The present tense includes the future tense, and singular number includes the plural, and the plural number includes the singular.
- C. The word “shall” is a mandatory requirement, and the word “may” is a permissive requirement, and the word “should” is a preferred requirement.
- D. The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”
- E. The word “lot” includes the words “plot” or “parcel”.
- F. Definitions in this Article 2 shall be identified as underlined and in **bold**.

Section 201 Specific Definitions

- A. **Accessory Use or Structure** is a subordinate use or structure customarily incidental to and located on the same lot with the principal use or structure.
- B. **Administrative Official** shall mean the Village Clerk of the Village of Spencer, Ohio, or the Zoning Inspector, or such other municipal officers or persons as are by lawful procedure appointed or assigned to the enforcement or administration of this Ordinance.
- C. **Adult Day Care Facility**: A day care center that during any part of the normal business day provides supervised educational, recreational and social activities to elderly and/or handicapped adults, but not including persons suffering from acute or chronic alcoholism or other drug dependency and persons who regularly require restraint. See also “Day Care Center”.
- D. **Agriculture** is the use of land for gardening, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce, provided, however, that:
 - 1. The operation of any such accessory uses shall be secondary to that of normal agricultural activities, and
 - 2. The above uses shall not include the feeding and sheltering of animals or poultry in penned enclosures within 100 feet of any residential dwelling. Agriculture does not include the feeding of garbage to animals or the operation or maintenance of a commercial stockyard or feed yard.
 - 3. A use shall be classified as agricultural only if agriculture is the principal use of the land.
- E. **Alley** is any public space or thoroughfare which has been dedicated or deeded to the public travel and which affords a secondary means of access to abutting properties.
- F. **Alterations** as applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

- G. **Area of a Building** is the aggregate of the maximum horizontal cross section area of the main building on a lot, excluding cornices, eaves, gutters, chimneys projecting outside the buildings, steps, open porches, bay windows, balconies and terraces.
- H. **Assisted Living Facility** Residential care facilities that provide housing, meals, personal care and supportive services to older persons and disabled adults who are unable to live independently.
- I. **Basement** is a story all or partly underground, but having at least one-half of its height below the average level of the adjoining ground. A basement shall not be counted as a story for the purpose of height regulations. (See Figure 4 – Basement and Story)
- J. **Bed and Breakfast** A private residence, several rooms of which are set aside for overnight guests whose paid accommodations include breakfast.
- K. **Building** is any structure designed, intended for the support, enclosure, shelter or protection of persons, animals or property.
- L. **Building, Accessory** is a subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.
- M. **Building, Height** is the vertical distance measured from the average elevation of the finished lot grade at the front of the building, to the highest point of a flat roof, to the deck line of a mansard roof, and to the average height between the plate and ridge of a gable, hip or gambrel roof. (See Figure 1 - Building Height and Roof Types.)

H = HEIGHT OF BUILDING

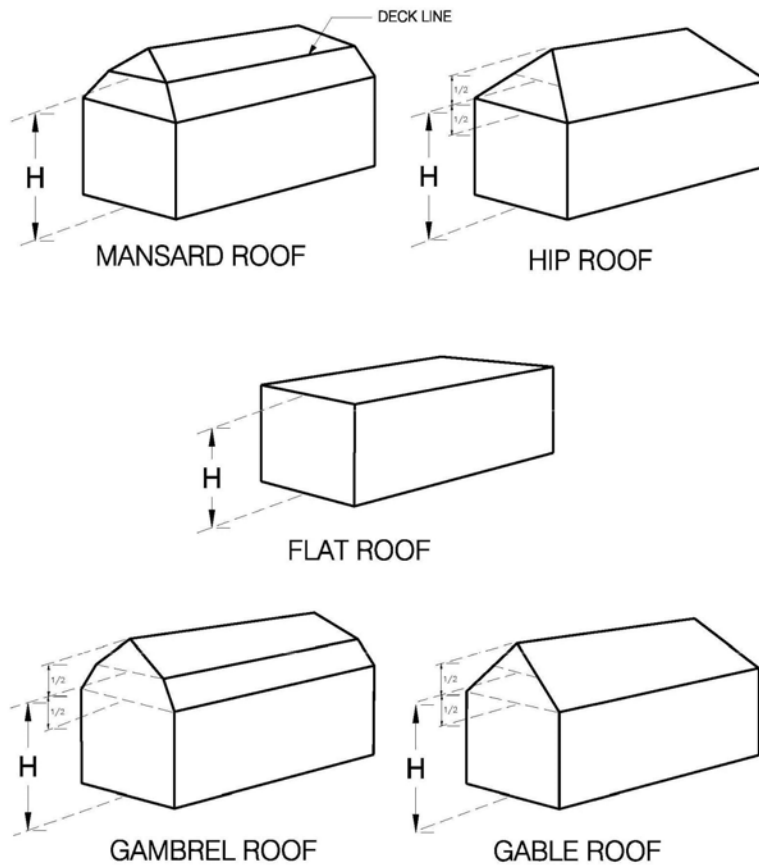


Figure 1 Building Height and Roof Types

- N. **Building, Principal** is a building in which is conducted the main or principal use of the lot on which said building is situated. (See Figure 2 - Lot Terms.)
- O. **Certificate of Occupancy** is a document issued by the Zoning Inspector certifying that the construction of buildings and the use of land are in accordance with the Zoning Ordinance and the previously approved application for a zoning permit.
- P. **Child Day Care** - Administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the 24 hour day in a place or residence other than a child's own home.
- Q. **Church or Place of Worship** - A building or structure, or groups of buildings or structures, intended for conducting organized religious services and accessory uses.
- R. **Commercial Vehicle** means any motor vehicle designed and used for carrying merchandise or freight, or used as a commercial tractor for drawing other vehicles designed and used for carrying merchandise and freight, and shall include such other motorless vehicles as are designed and used for carrying merchandise or freight and are drawn by other than motor vehicles, provided, however, that the station wagons and small two-wheeled automobile trailers of not more than one-half ton capacity shall not be included in this definition.
- S. **Comprehensive Plan** is a plan, or any portion otherwise adopted by the Village Council of the Village of Spencer, showing the general location and extent of present and proposed physical facilities, including housing, industrial and commercial uses, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives and policies of the community.
- T. **Conditionally Permitted Use** is a use permitted within a district other than a principally-permitted use, requiring a conditional zoning certificate and approval of the Village Council. Conditional uses permitted in each district are listed in the District Regulations as set out in Article 4 and are subject to the general requirements of Article 10 Section 1008 and to the specific requirements of Article 10 Section 1009.
- U. **Conditional Zoning Certificate** is a permit issued by the Zoning Inspector upon approval by the Village Council to allow a use other than a principally-permitted use to be established within the district.
- V. **Day Care Center** - Any place other than a family day care home in which day care is provided for either adults or children. See also “Adult Day Care Facility” and “Child Day Care”.
- W. **Drive-Through Establishment** is a business establishment so developed that its retail or service character is dependent upon providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within the building or structure.
- X. **Drive Thru Window** An opening in the wall of a building or structure designed and intended to be used to provide for sales to and/or service to patrons who remain in their vehicles.
- Y. **Dwelling** is any building or structure which is wholly or partly used or intended to be used for human habitation.
- Z. **Dwelling, one-family** is a detached building designed for, or occupied exclusively by one family, and containing cooking facilities.

- AA. **Dwelling, two-family** is a detached building designed for, or occupied exclusively by, two families, living independently of each other, and containing separate cooking facilities for each family.
- BB. **Dwelling, Multi-Family** is a dwelling containing more than two dwelling units.
- CC. **Dwelling Unit** is space, within a dwelling, comprising living and dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by a family.
- DD. **Energy Generating Device Apparatus** or equipment that converts a form of power to another form of power, such as electricity, i.e., wind turbines or solar panels.
- EE. **Family** - One or more persons occupying a dwelling, and living as a single housekeeping unit.
- FF. **Family Day Care Home, Type B:** - A permanent residence of the provider in which child day care or child day care services are provided for one to six children at one time and in which no more than three children may be under two years of age at one time. In counting children for the purposes of this division, any children under six (6) years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings, nor does it include any child day camp.
- GG. **Family Home for Handicapped Persons:** A licensed residential facility that provides room and board, personal care, rehabilitative services, and supervision in a family setting for up to eight (8) handicapped persons. (See handicapped person.) The term "family home for handicapped persons" does not include "halfway house" or other housing facilities serving as an alternative to incarceration, "nursing home", "rest home", "boarding house", "rooming house", "lodging house", "residential treatment home/center", "special care home" or any other such similar building or use of a building.
- HH. **Fence** - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.
- II. **Floor Area, Commercial** - "Floor Area" in offices, merchandising and service types of uses means the area used for service to the public and excludes areas used principally for non-public purposes such as storage, incidental repair, processing, show windows, rest rooms and dressing rooms. In measurement for parking space, fractions of required floor area over one half shall require one parking space.
- JJ. **Floor Area for Living Purposes** The floor area for living purposes consists of living room, bedroom, bathroom, dining room, kitchen, den, library, and family room, but exclusive of porches, basements, terraces and garages.
- KK. **Garage, Private** is a building or part thereof accessory to a main building and providing for the storage of automobiles, travel trailers and/or boats of the occupants of the premises and wherein no occupation or business for profit is carried on.
- LL. **Garage, Public or Storage** is a building or part thereof, other than a private garage, available to the public for the storage or rental of motor vehicles and in which service station activities may be carried on.
- MM. **Group Home** – A residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine (9) but not more than sixteen (16) handicapped persons. (ORC §5123.19(O).

- NN. **Handicapped Person**: A person with a physical or mental impairment, as defined in 42 U.S.C. 3602 (h), that substantially limits one or more of such person's major life activities so that such person is incapable of living independently. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in a home would constitute a direct threat to the health and safety of other individuals.
- OO. **Hazardous Substance** - Any substance or material that, by reason of its toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.
- PP. **Height – See Building Height**.
- QQ. **Home Occupation** - An accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof.
- RR. **Hotel or Motel** is a building containing more than five rooms intended or designed to be used or which are used, rented or hired out to be occupied for sleeping purposes by guests.
- SS. **Industry, Heavy** is manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character, require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution, and water pollution, but not beyond the district boundary.
- TT. **Industry, Light** is manufacturing or other industrial uses which are usually controlled operations, relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed structures and generating little industrial traffic and no nuisances.
- UU. **Institution** - A building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative, counseling, or other correctional services. Also includes a non-profit organization or non-profit establishment for public use.
- VV. **Junk** is any worn out, cast-off litter or debris or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new, shall not be considered junk.
- WW. **Junkyard** is the use of more than twenty-five (25) square feet of the area of any lot, whether inside or outside of a building or the use of any portion of that half of any lot that joins any street, for the storage, keeping or abandonment of junk.
- XX. **Landscaping** - The use of natural materials (stones, shrubs, trees, etc.) in a planned fashion to enhance the visual appeal of a property.
- YY. **Loading Space** is an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.
- ZZ. **Lot** is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Ordinance, and having its frontage on a public street.

- AAA. **Lot, Corner** is a lot at the point of intersection of an abutting on two or more intersection streets, the angle of intersection being not more than 135 degrees. It is the land occupied or to be occupied by the corner buildings.
- BBB. **Lot, Minimum Area** of is the area of a lot computed exclusive of any portion of its right-of-way of any public or private street.

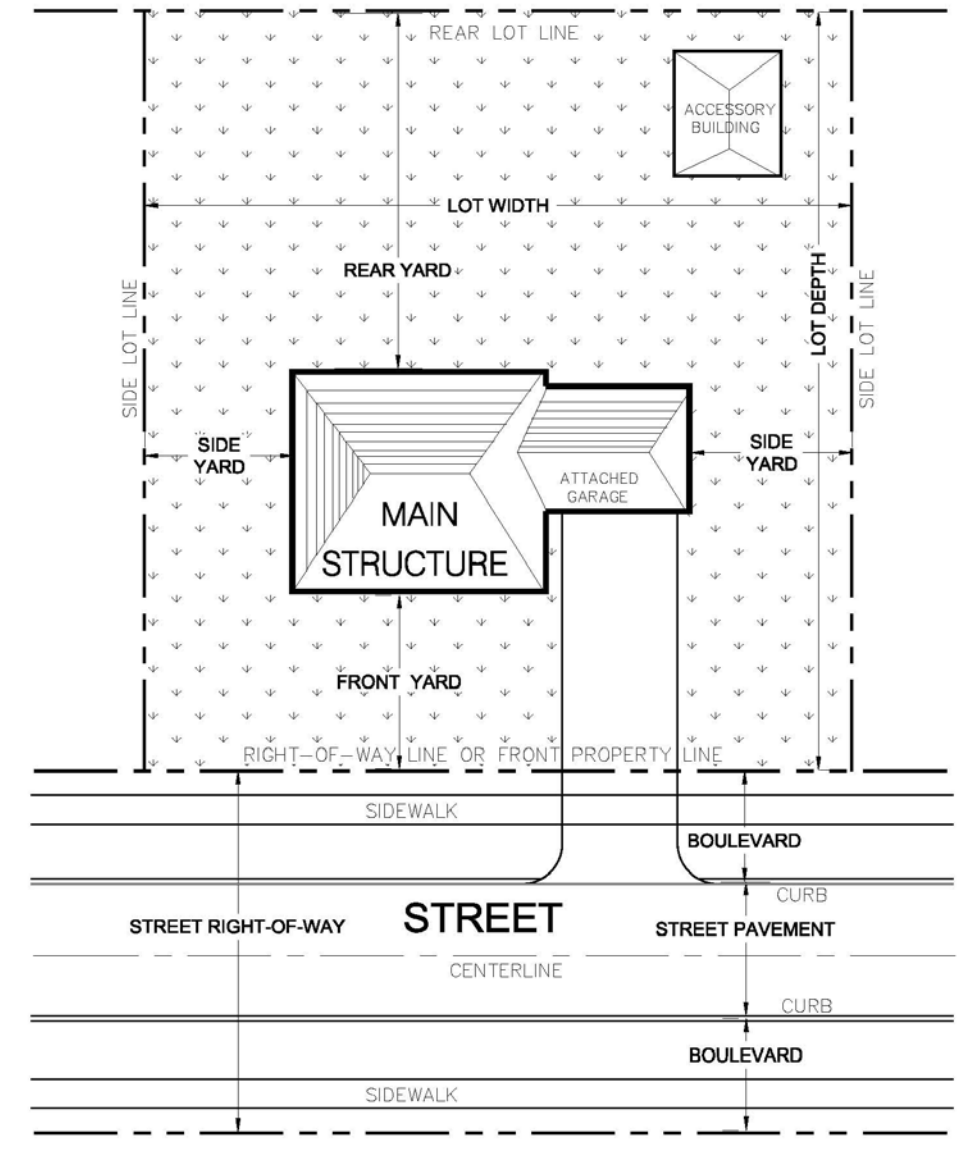


Figure 2 Lot Terms

- CCC. **Non-conforming Use** is a building, structure or use of land existing at the time of the enactment of this Ordinance, and which does not conform to the regulations of the district in which it is located.
- DDD. **Nonconformity** - A lot, use of land, building, use of buildings, or use of buildings and land in combination lawfully existing at the time of enactment of this Zoning Ordinance or its amendments, which do not conform to the regulations of the district or zone in which it is situated.

1. **Nonconforming Building or Structure:** A building or structure existing when this Zoning Ordinance or any amendment thereto became effective, which does not conform to the regulations governing buildings of the district in which it is located.
 2. **Nonconforming Lot:** A lot lawfully existing on the effective date of this Zoning Ordinance or any amendment thereto, which does not conform to the lot area, width or frontage requirements of the district in which it is located.
 3. **Nonconforming Site Condition:** Any structure lawfully existing on the effective date of this Zoning Ordinance or any amendment thereto, which does not conform to the yard regulations, parking requirements, sign regulations, landscaping or screening requirements or other development standards of the district in which it is located.
- EEE. **Non-Conforming Use** - Any building or land lawfully occupied by a use on the effective date of this Zoning Ordinance or any amendment thereto, which does not conform to the use regulations of the district in which it is situated.
- FFF. **Outdoor Wood-Burning Furnace/Outdoor Wood-Fired Hydronic Heater** – Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.
- GGG. **Parking Space** is an area of not less than 200 square feet, net, exclusive of access or maneuvering area, ramps, or columns, to be used for the temporary storage or parking of passenger vehicles.
- HHH. **Public Space** Areas open to the public for the purpose of recreation, display of public art or leisure activity.
- III. **Research Activities** are research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering. All research, testing and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration, or odor shall be detected outside of said building.
- JJJ. **Setback** The minimum distance by which any building or structure must be separated from a street right-of-way or property line.
- KKK. **Setback Line, Front Yard** A line extending across the full width of a lot between the front property line, or street right-of-way, and the principal building or structures, excluding a front stoop or steps. Where the right-of-way is not established, i.e. a private street, the point of measurement shall be twenty-five feet from the centerline of the road.
- LLL. **Setback Line, Minimum Building** A line generally parallel to the street right-of-way line at such distance from the street right-of-way line as required by the minimum front yard depth in the district in which it is located. Where the right-of-way is not established, i.e. a private street, the point of measurement shall be twenty-five feet from the centerline of the road.
- MMM. **Setback Line, Rear Yard** A minimum distance from the rear property line(s) to the nearest point or overhang of a building or structure measured perpendicular to the rear lot line(s).
- NNN. **Setback Line, Side** A minimum horizontal distance between the side property line and the side wall or overhang of a building or structure, excluding a chimney, steps or stoops.

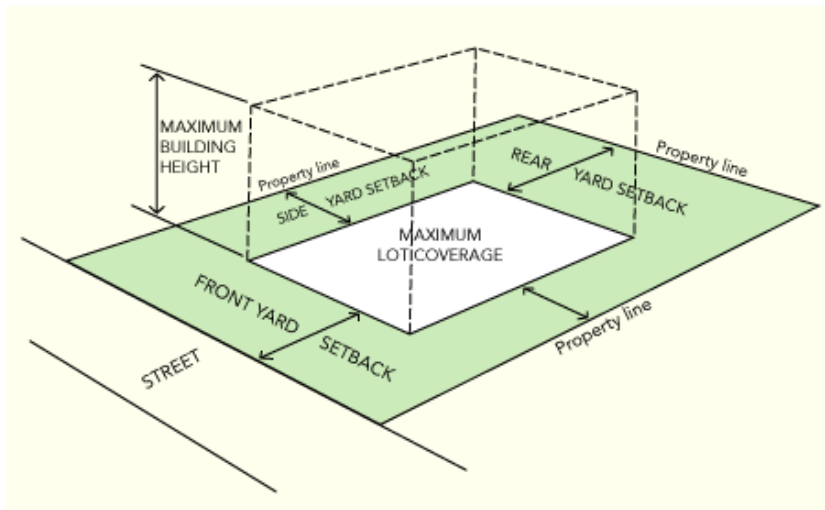


Figure 3 Setback Line, Minimum Building

- OOO. **Small Wind System** – a WEC that has a maximum capacity of 100 kilowatts or less and has a maximum height of 170 feet.
- PPP. **Solar Panel** – A single photovoltaic panel or a group of photovoltaic panels that convert solar energy to electricity.
- QQQ. **Storage Pod** An enclosed unit of durable construction or material, typically 8 feet in width by 8 feet in height by 16 feet long, designed for temporary storage, which are transported by truck, filled by the property owner, and removed and stored at a central location.
- RRR. **Story** is the part of a building between the surface of a floor and the ceiling immediately above. A basement shall not be counted as a story for the purpose of height restrictions. (See Figure 4 - Basement and Story.)
- SSS. **Street** is a public thoroughfare which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.
- TTT. **Street, Cul-de-sac** A thoroughfare with one end open to traffic and the other end permanently terminating in a vehicular turnaround.
- UUU. **Street, Private** A thoroughfare which affords principal means of access to abutting property, but which has not been dedicated to the public, or subject to public easements.
- VVV. **Street, Public** A public or private dedicated thoroughfare subject to public easements thereto, and which affords the principal means of access to abutting property.
- WWW. **Structure** is anything constructed or erected which requires permanent location on the ground, including signs and billboards, fences and walls used as fences.
- XXX. **Use** is the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.
- YYY. **Variance** is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in an unnecessary and undue hardship.
- ZZZ. **Vicinity Map** is a drawing located on a plot plan which sets forth by dimensions and other means, the relationship of the proposed subdivision or use to other nearby

developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

- AAAA. **Wind Energy Conversion Systems (WECS)** – wind powered rotating devices located on top of a pole or structure that in turn rotates a turbine to generate electricity.
- BBBB. **Wind/Solar Facility** – All equipment, machinery, and structures utilized in connection with the conversion of wind or solar energy to electricity. This includes, but is not limited to, towers, transmissions, storage, collection and supply equipment, substations and transformers.
- CCCC. **Wind Turbine** A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.
- DDDD. **Wind/Solar Facility** All equipment, machinery, and structures utilized in connection with the conversion of wind or solar energy to electricity. This includes, but is not limited to, towers, transmissions, storage, collection and supply equipment, substations and transformers.
- EEEE. **Yard** An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward.
- FFFF. **Yard, Front** An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side line of the lot. (See Figure 3- Lot Terms.)
- GGGG. **Yard, Rear** An open, unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extended the full width of the lot. (See Figure 3- Lot Terms.)
- HHHH. **Yard, Side** An open, unoccupied space on the same lot with a building situated between the building and the side line of the lot and extended from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side lot line. (See Figure 3- Lot Terms.)
- III. **Zoning District Map** The map or maps that are duly adopted by the Village as part of the zoning ordinance which delineate the boundaries of the zoning districts.
- JJJJ. **Zoning Inspector** The Administrative Official designated by the Village to administer the Zoning Ordinance and to issue zoning permits. (See Administrative Official definition.)
- KKKK. **Zoning Ordinance** A composite of the zoning text which describes the specific regulations for both private and public uses within each use district, and Zoning Districts Map which indicates graphically and precisely the location and extent of district or zone boundaries.
- LLLL. **Zoning Permit** A document issued by the zoning inspector authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.

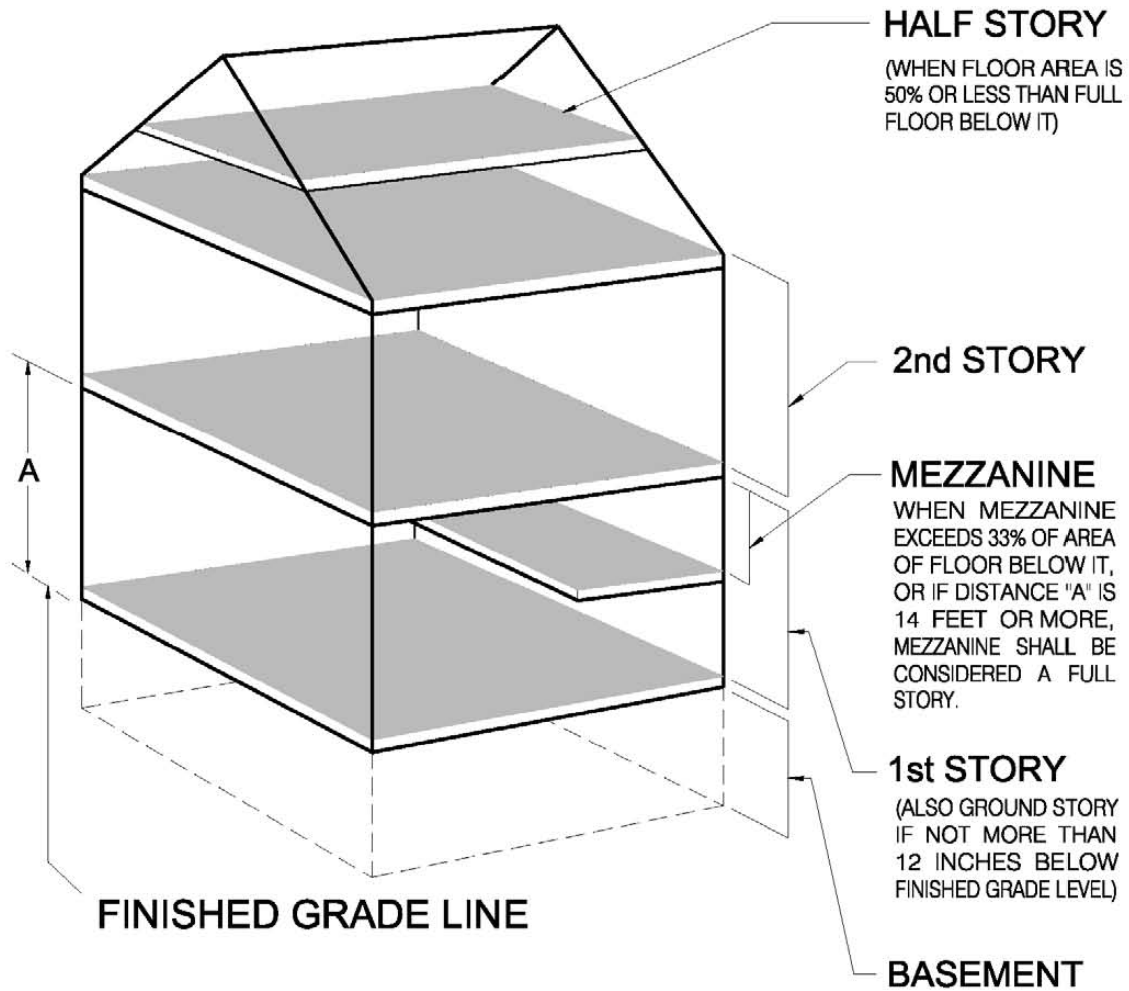


Figure 4 Basement and Story

Article 3 General Regulations

Section 301 Purpose

General Regulations apply to all zoning districts. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

Section 302 General Compliances

- A. Except as otherwise provided in Section 303, no building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district in which it is located as shown on the Zoning Map.
- B. Except as otherwise provided in Section 303, no building, structure or premises shall be erected, altered or used so as to produce great heights, smaller yards, or less occupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
- C. Except as otherwise provided in Section 303, no lot area shall be reduced to the extent that the yards or other open spaces are smaller than required by this Ordinance.
- D. Except otherwise provide in Section 303, no yard, court or open space, or part thereof shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this ordinance.
- E. No parcel of land shall hereafter be so reduced or subdivided in any manner so as to provide less than the minimum lot size required in the zoning district in which such land is situated.

Section 303 Principal Building

Every building hereafter erected or structurally altered shall be located on a lot and in no case shall there be more than one principal building and the customary accessory building(s) on one lot except as otherwise provided, in conformity with the provision of this Ordinance.

Section 304 Required Street Frontage

Except as otherwise provided by this Ordinance, every principal building shall be located on a lot having frontage on a public or private street built to standards required of dedicated streets in the Village.

Section 305 Corner Lots and Visibility at Intersections

- A. Corner lots in all districts are required to have the minimum front yard requirements as indicated in that district, facing both streets.
- B. On every corner lot there shall be no material impairment to visibility between a height of three feet and eight feet above the natural grade, within a triangular area formed by the right-of-way lines of two intersecting streets and a line connecting them at two points, both 30 feet from the point of intersection of such right-of-way lines, as illustrated in Figure 5 – Corner Lots and Visibility at Intersection.

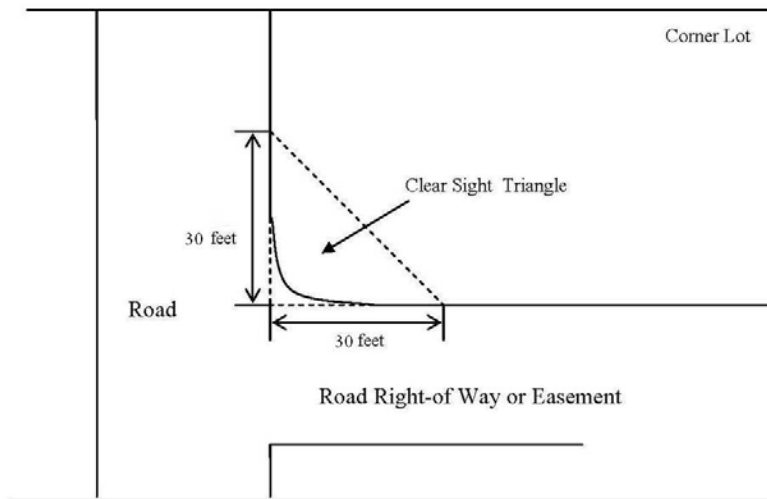


Figure 5 Corner Lot and Visibility at Intersection

Section 306 Establishment of Districts

For the purpose of promoting the public health, safety, morals, convenience, comfort, prosperity, and general welfare of the Village of Spencer, the following zoning districts are hereby established:

- R-1 Low Density Residential District
- R-2 Medium Density Residential District
- R-3 High Density Residential District
- B-1 Business District
- CM Commercial Mixed Use District
- I-1 General Industrial District
- LI Light Industrial District

Section 307 Zoning District Map

The zoning districts established in Section 307 are bounded and defined as shown on a map entitled “Zoning Map of the Village of Spencer, Ohio”, and said Zoning Map with all the notations, references, and other pertinent material shown thereon are hereby declared as part of this Ordinance.

Section 308 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of thoroughfares or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries,
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries,
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-ways lines of highways, such district boundaries shall be construed as being parallel thereto and at

- such distance there from as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map,
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracts of such railroad line.
 - E. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Village unless otherwise indicated,
 - F. Where any street, alley or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
 - G. Where physical or cultural features existing on the ground are at variance with those shown on the zoning plan or in other circumstances not covered by subsections A-F above, the Board of Zoning Appeals shall interpret the district boundaries.

Section 309 Annexation

All land annexed to the Village subsequent to the adoption of this Ordinance shall remain subject to the previous township zoning district until such time as the Official Zoning Map is amended according to the provisions of Article 13. All land annexed to the Village which, prior to the annexation, is not subject to township zoning map shall remain unzoned until the Official Village Zoning Map is amended according to the provisions of Article 13.

Section 310 Permitted Height Exceptions

No structure shall exceed height limitations as specified in each district with the exception of the following accessory and incidental parts of such structure, which may be erected no more than fifteen (15) feet above the height limits of a district:

1. Structures for housing of elevators, stairways, tanks, ventilating fans, or similar equipment for operating and maintaining the building;
2. Fire or parapet walls;
3. Skylights, towers, steeples;
4. Stage lofts and screens;
5. Flagpoles, chimneys, smokestacks;
6. Radio and television aerials, wireless masts, and
7. Water tanks or similar structures.

Section 311 Accessory Buildings, Uses and Structures for Residential Districts

Accessory Use, Yard and Height Requirements

Accessory uses, buildings and structures permitted in the R-1, R-2, R-3 districts shall conform to the location, coverage and height standards contained in this Section, except where otherwise noted. An accessory building or structure shall be located as set forth in Schedule 311 below; however, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in this Ordinance.

The height of accessory buildings, farm markets or temporary buildings shall be measured from the natural grade of the front of the building.

Schedule 311 Minimum Yard Requirements and Height for Accessory Uses or Structures in Residential Districts

Column A.	B.	C.	D.	E.	F.	G.
Accessory building, use or structure	Yard in which use or building permitted	Minimum Distance in feet from structure to:				Maximum Height of Structures (in feet)
		Rear Lot Line	Side Lot Line	Street R-O-W Line	From Principal building	
1. Detached Accessory Building 120 sq. ft. or less	Rear and Side	5	5	25	15	15
2. Detached Accessory Building >120 sq. ft. ^(a)	Rear and Side	15	10	25	15 ^(c)	18
3. Temporary Storage Pod (unit)	Rear and Side	15	10	25	5	10
4. Permanent year round Swimming pools, Private ^(a)	Rear and Side	15	10	25	15 or attached by decking surface	N/A
5. Farm Markets	Front, Side or Rear	15	10	25	15	18
6. Temporary buildings/trailers and uses	Front, Side or Rear	10	10	25	20	18
7. Fences or walls ^(a)	Front, Side or Rear	N/A	N/A	5	N/A	^(b)
8. Outdoor Wood Burning Furnace	See Section 312K for outdoor wood burning furnace requirements					
9. Freestanding Wind Energy Conversion System	See Section 1009F for Conditional Use Permit WECS requirements					
10. Hot Tubs	Rear and Side	15	10	25	N/A	N/A
11. Enclosed Hot Tub /Sauna	Rear and Side	15	10	25	15	18
12. Pergola or Arbor	Rear and Side	15	10	25	N/A	18
Notes to Schedule 311: (a) Also see Section 312, (b) Depends on location. See Section 312F, (c) 15 ft. from all adjacent buildings.						

Section 312 Supplemental Accessory Building, Structure and Use Regulations

In addition to the yard and height regulations set forth in Section 313, accessory uses shall comply with the following supplemental regulations.

A. Accessory buildings:

1. Attached garages shall be considered part of the dwelling unit and shall comply with the setbacks for dwellings. Detached garages and carports shall comply with all requirements for accessory buildings.
2. Accessory buildings shall not be used as living quarters.
3. Accessory buildings shall not exceed the square foot area of the primary use structure on the premises.
4. The total of all unattached accessory buildings shall not exceed five hundred seventy six (576) square feet for parcels up to twelve thousand (12000) square feet. For parcels with more than twelve thousand (12000) square feet, the maximum detached accessory building size shall be nine hundred (900) square feet.
5. No detached accessory buildings shall exceed five hundred (500) square feet per unit in Residential districts where multi-family exists, except as otherwise specifically permitted.
6. A Residential Accessory Building Affidavit shall be completed and submitted for any single, detached accessory building over seven hundred (700) square feet prior to issuance of a permit.
7. Accessory buildings shall not be constructed or placed on a lot without a principal dwelling unit. If two lots are in common ownership an accessory building can only be constructed or placed on the lot with the principal dwelling unit.

B. Permanent Year Round Swimming Pools, Private:

1. All above ground swimming pools over three (3) feet in height and all in ground swimming pools require a permit and shall comply with all setback requirements. The square footage of a swimming pool shall not be counted when calculating total square footage of accessory structures
2. Construction, plumbing and electrical requirements, inspection, and other safety facilities shall be regulated by the county or state building codes.
3. All permanent swimming pools, in-ground or four (4) feet above ground, which are considered structures, or the entire property upon which they are located shall be enclosed by a wall or fence having a minimum height of four (4) feet and be equipped with a suitable locking devices to prevent uncontrolled access from adjacent properties. No pool shall be filled with water until the appropriate means of preventing uncontrolled access from the street or adjacent properties has been completed, per the zoning ordinance.
4. All pool enclosures shall be maintained in good condition.
5. Temporary inflatable type pools shall be exempt from the setback requirements and shall not require fencing; however, such temporary pools shall only be permitted in

the rear or side yard and shall be secured to prevent uncontrolled access from adjacent properties.

C. Porches, Decks, Patios, and Sidewalks:

1. Accessory structures such as porches, balconies, and decks shall meet the setbacks of the principal building.
2. Unattached decking shall be at least 15 feet from the principal building.
3. The installation of cement, brick, or block patios (without footers) and sidewalks does not require a permit.

D. Other Accessory Structures: Structures used as doghouses, children play house, and gym equipment shall not require a permit. However, a storage shed used as a children's playhouse or a children's playhouse used as a storage shed shall require a permit and shall conform to applicable regulations.

E. Vehicles Parked, Stored or Housed: One commercial vehicle of not more than three-quarter (3/4) ton-rated capacity may be kept, parked, stored or housed at or on any lot and said commercial vehicle must be kept, parked, stored or housed within an enclosed garage.

F. Disabled Vehicles: The parking of a disabled vehicle within a residential or commercial district for a period of more than two weeks shall be prohibited, unless such vehicle is stored in an enclosed garage or other accessory building.

G. Temporary construction buildings and uses:

1. Temporary buildings, including tents and construction trailers, for uses incidental to construction work may be erected in any residential zoning district.
2. Temporary buildings shall be removed upon completion or abandonment of construction work.
3. Overnight parking or storage of construction vehicles shall not be permitted.
4. Temporary buildings or vehicles associated with temporary uses shall not interfere with the safe ingress or egress of emergency vehicles.
5. Signs shall be permitted in compliance with Article 7.
6. Parking shall be required in compliance with Article 8.
7. Temporary uses shall comply with Section 311.(6).

H. Fences and Walls:

1. Fences and walls located in the front yard shall not exceed a height of three (3) feet.
2. Fences and walls located in the side or rear yard shall not exceed a height of six (6) feet.
3. All fences and walls should be constructed in a professional manner and shall be maintained in safe and good condition at all times.
4. Fences constructed of solid materials shall be installed so that the finished side of the fence faces the adjacent property.
5. A permit shall be required for fences or walls.

6. A gate constructed separately or as part of a fence shall be considered a fence for the purpose of these regulations.
- I. Recreational and Community Facilities Located in a Residential Development: Recreational and community facilities that are accessory to a multi-family development shall be designed and intended for use only by the residents of the development and shall comply with the setback requirements for principal buildings for the district in which the development is located.
- J. Temporary Storage Pod (units):
 1. One per lot or parcel.
 2. Shall be removed immediately upon expiration of zoning permit.
 3. Only two (2) pods will permitted for sixty (60) days each within one calendar year.
- K. Outdoor Wood Burning Furnace:

An outdoor wood burning furnace may be permitted within the Residential Districts on lots that are one (1) acre or greater. An outdoor wood burning furnace shall not be permitted in any other zoning district. All wood burning furnaces shall meet the following requirements:

 1. Must be located in the rear yard only;
 2. Must be setback 200 ft. from all property lines;
 3. No outdoor wood burning furnace shall be utilized as a waste incinerator;
 4. Fuels are limited to seasoned hardwood, corncobs, or wood chips;
 5. Must comply with Medina County Building Department regulations (building, mechanical, electrical, heating) and Ohio EPA Air Pollution Control Division regulations;
 6. Fire Department approval of furnace location;
 7. Minimum stack height shall be twenty (20) feet from the ground at unit base, and
 8. No person shall cause, allow or maintain the use of an outdoor wood burning furnace without a valid zoning permit.

Section 313 Accessory Buildings, Uses and Structures for Business and Industrial Districts

Accessory uses, buildings, and structures permitted in the B-1, LI-1 and I-1 shall conform to the location and height standards contained in this section, except where otherwise noted. An accessory building or structure shall be located as set forth in Schedule 313, below. An accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in Section 314.

Schedule 313 Setbacks

Minimum Yard Requirements and Height for Accessory Buildings, Structures or Uses (in feet)

Column A.	B.	C.	D.	E.	F.	G.
Accessory building, use or structure	Yard in which use or building permitted	Minimum distance from structure to:				Maximum Height of Structures
		Rear Lot Line	Side Lot Line	Street R-O-W Line in LI-1 & I-1 Dist	From Principal Building	
1. Detached storage building, structure or use less than 200 sq. ft. (b)	Rear and Side	16 ft.	15 ft.	25 ft.	20 ft.	24 ft.
2. Detached trash enclosure (c)	Rear and Side	5 ft. (d)	5 ft. (d)	25 ft. (d)	15 ft.	8 ft. fence
3. Temporary storage pod (unit)	Rear and Side	10 ft. (d)	10 ft. (d)	25 ft.	5 ft.	20 ft.
4. Swimming Pool, Commercial	Rear	15 ft. (d)	10 ft. (d)	25 ft. (d)	15 ft. or attached by decking	8 ft. fence
5. Temporary buildings/trailers & Uses	Front, Side and Rear	10 ft.	10 ft.	25 ft.	20 ft.	18 ft.
6. Fences and walls (c)	Front, Side and Rear	N/A	N/A	10 ft.	N/A	Sec 314F
7. Wind Energy Conversion System (a)	See Section 1009F for WECS requirements					
8. Outdoor display for festivals/display/sales	Front, Side and Rear	5 ft. (d)	5 ft. (d)	25 ft.	N/A	10 ft.
Notes to Schedule 313						
(a) Also see Section 314 of these regulations						
(b) All buildings with a ground floor area of 200 or more square feet shall be considered principal buildings and shall comply with all regulations for principal buildings.						
(c) Permits are not required.						
(d) 50 ft. when abutting a residential district						

Section 314 Supplemental Accessory Use Regulations

- A. Accessory buildings or structures shall not be constructed or placed on a lot without a principal building or use. If two adjoining lots are in common ownership an accessory building can only be built on the lot with the principal building or use.
- B. Trash Receptacles. All waste shall be disposed of and temporarily stored in a proper waste receptacle that is enclosed on all sides with a solid fence or wall at the side or rear of the property. Enclosure may be attached to building; however the dumpster location itself must be at least 5 ft. from the building. Buildings that include a restaurant should contact the Medina County Health Department for any additional requirements.
- C. Swimming Pool Commercial. Swimming pools, hot tubs or whirlpools shall be either contained in a completely enclosed building or surrounded by a fence with a minimum height of eight (8) feet. Fences shall be installed in conjunction with pool construction.
- D. Temporary Construction Buildings and Uses.
 - 1. Temporary buildings for uses incidental to construction work may be erected in any of the districts herein established.
 - 2. Temporary buildings shall be removed upon the completion or abandonment of the construction work.
 - 3. Temporary buildings or vehicles associated with temporary uses shall not interfere with the safe ingress or egress of emergency vehicles.
- E. Temporary Storage Pods.
 - 1. Shall not decrease required parking spaces.
 - 2. Shall not block fire lanes.
 - 3. Zoning permit limited to sixty (60) days for each pod in a residential district.
- F. Fences
 - 1. Fences shall be located at least 10 feet from any road right-of-way.
 - 2. Fences located in the front yard shall not exceed a height of three (3) feet.
 - 3. Fences located in the side or rear yard and shall not exceed a height of eight (8) feet. The Planning Commission may permit a greater height during site plan review process, based upon the following criteria:
 - i. The proposed use is shown to be of a character that may be subject to vandalism, or
 - ii. The proposed use is of a high security nature.
 - 4. All fences shall be constructed in a professional manner and be maintained in a safe condition at all times.
 - 5. A gate constructed separately or as part of a fence shall be considered a fence for the purpose of these regulations.

Section 315 Outdoor Business Display and Outdoor Storage

All uses shall be conducted within completely enclosed buildings in the B-1 and I-1 Districts.

- A. Outdoor Display. The outdoor display of goods for sale shall comply with the following:
 - 1. Display areas shall comply with the parking setbacks set forth in Schedule.
 - 2. Such display areas shall not be located in areas intended for traffic circulation.
 - 3. Only ten (10%) percent of the existing parking spaces may be used for temporary display when the display area is located within the parking lot.
- B. Outdoor Storage. Outdoor storage shall comply with the following:
 - 1. All areas devoted to outdoor storage shall be located in the side or rear yard, a minimum of 16 feet from a side or rear lot line.
 - 2. Outdoor storage areas shall not exceed the ground floor area of principal building on the site.

Section 316 Sexually Oriented Businesses

- A. Purpose. It is the purpose of this Amendment to regulate Sexually Oriented Businesses in order to promote the health, safety, and morals of the citizens of the Village of Spencer, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Sexually Oriented Businesses with the Village of Spencer. The provisions of this Amendment do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this Amendment to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Amendment to condone or legitimize the distribution or obscene material.
- B. Definitions.
 - 1. Adult Arcade - any place to which the public is permitted or invited where either or both (i) motion picture machines, projectors, video or laser disc players, or (ii) other video or image-producing devices are available, run via coin, token, or any form or consideration, to show images to five or fewer persons at one time; and where the images so displayed are distinguished or characterized by the depicting or describing of nudity or semi-nudity or where the images shown and/or live entertainment presented are characterized by the depiction or description of “specified sexual activities” or “specific anatomical areas.”
 - 2. Adult Bookstore, Adult Novelty Store or Adult Video Store - a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: (a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of

“specified sexual activities” or “specified anatomical areas” or (b) instruments, devises, or paraphernalia which are designed for use in connection with “specified sexual activities.” A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as Adult Bookstore, Adult Novelty Store or Adult Video Store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an Adult Bookstore, Adult Novelty Store or Adult Video Store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

3. Adult Cabaret - a nightclub, bar, restaurant, or similar commercial establishment that regularly features: (1) persons who appear in a “state of nudity” or “semi-nude”, or (2) live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities; or (3) live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment. In the event that there is a conflict between this definition and the definition of “Adult Cabaret” in any Ordinance authorized by O.R.C. §503.51 *et.seq.* adopted by the Village Council and lawfully in effect, the definition in the aforementioned Ordinance shall prevail.
4. Adult Theater - a theater, concert hall, auditorium, or similar commercial establishments where x-rated films, motion pictures, video cassettes, slides, or similar photographic productions are regularly shown or which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of “specific anatomical areas” or by “specified sexual activities.”
5. Covering - any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or makeup, or any substance designed to simulate the appearance of the anatomical area beneath it.
6. Establishment means and includes any of the following the opening or commencement of any Sexually Oriented Business as a new business;
 - a. the conversion of an existing business, whether or not Sexually Oriented Business, to any Sexually Oriented Business;
 - b. the additions of any Sexually Oriented Business to any other existing Sexually Oriented Business; or
 - c. the relocation of any Sexually Oriented Business.
7. Nude Model Studio – means any place where a person who appears semi-nude or who displays specific anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons

who pay money or any form of consideration. Nude Model Studio shall not include:

- a. a proprietary school licensed by the State of Ohio, or a college, junior college, or university supported entirely or in part by public taxation;
 - b. a private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - c. an establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicated a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.
8. Nudity or a State of Nudity or Nude – means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernible turgid state, even if entirely covered by an opaque covering; exposing to view any device, costume or covering that gives the appearance of or simulates any of the theses anatomical areas.
9. Person – means an individual, proprietorship, partnership, corporation, association, or other legal entity.
10. Principal Business Purpose – means forty percent (40%) or more of the stock in trade of the business offered for sale or rental for consideration measured as a percentage of either the total linear feet of merchandise for sale or rental for consideration on display or the gross receipts of merchandise for sale or rental consideration, whichever is the greater.
11. Semi-Nudity or Semi-Nude Conditions or Semi-Nude – means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing provided that the areola is not exposed in whole or in part.
12. Sexual Encounter Center – means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration;
- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. activities between male and female persons and/or persons of the same sex when one or more of the person is nude or semi-nude.
13. Sexually Oriented Business – means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center.

14. Specified Anatomical Areas means:
 - a. the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - b. less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.
 15. Specified Sexual Activities means any of the following;
 - a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or
 - b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - c. excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above; or
 - d. performing or appearing nude or semi-nude by employees or patrons.
 16. Substantial Enlargement of a Sexually Oriented Business – means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this Amendment takes effect.
 17. Sexually Oriented Business Classification
 - a. adult arcades;
 - b. adult bookstores, adult novelty stores, or adult video store;
 - c. adult cabarets;
 - d. adult motion picture theaters;
 - e. adult theaters;
 - f. nude model studios; and
 - g. sexual encounter centers.
- C. Location of Sexually Oriented Business
1. A Sexually Oriented Business may be located only in accordance with the restrictions contained in (2) through (6) below.
 2. A Sexually Oriented Business may be located only in the General Industrial District, in accordance with the adopted Sexually Oriented Business District map.
 3. No Sexually Oriented Business may be established within 1,000 feet of:
 1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 2. A public or private educational facility including but not limited to child day care facilities, nursery school, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

3. A boundary of a residential district as defined in the Zoning Ordinance or Official Village of Spencer Zoning Map;
 4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Village which is under the control, operation, or management of either the Village or which is operated or managed by another entity;
 5. An entertainment business which is oriented primarily towards children or family entertainment, or
 6. A lot containing a residential structure, including multi-family dwellings, a nursing home, convalescent home, extended care facility, library, museum, historical site, or historical landmark.
4. No Sexually Oriented Business may be established within 1,000 feet of the property line of a lot devoted to a residential use. For the purpose of this section, and other references to “residential use,” residential use includes, but is not limited to, non-conforming residential uses, residential uses permitted by right, or residential uses permitted by a conditional use permit.
 5. No Sexually Oriented Business may be established, operated or enlarged within 1,000 feet of another Sexually Oriented Business.
 6. Not more than one Sexually Oriented Business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure, or portion thereof containing another Sexually Oriented Business may not be increased.
 7. For the purpose of subsections (3) and (4) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a Sexually Oriented Business is operated, to the nearest property line of the premises of a use listed in subsection (3) and (4).
 8. For the purpose of subsection (5) of this Section, the distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

D. Prohibition

No person employed in a sexually oriented business (except a massage establishment which is covered by Part D below) located in the unincorporated area of the Village shall knowingly do any of the following in the performance of duties at the sexually oriented business:

1. Place his or her hand upon, touch with any part of his or her body, fondle in any manner, or massage the genitals, pubic area, or buttocks or any other person or the breast of any female or if the employee is a female, or any other female.

2. Perform, offer, or agree to perform any act that would require the touching of the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female.
3. Uncover the genitals, pubic area, or buttocks of any other person or the breasts of any female or, if the employee is a female, of any other female.
4. Engage in any specific sexual activity, action, or simulated.
5. Appear in a state of nudity or semi-nudity unless the employee is on a stage at least two feet from the floor and at least six feet from any customer.

Article 4 District Regulations

Section 400 Low Density Residential District (R-1)

Section 400.1 Purpose of the R-1 District

The purpose of the R-1 District is to encourage the establishment of low density single and two family dwellings not to exceed four (4) dwelling units per gross acre.

Section 400.2 Permitted Uses of the R-1 District

Uses permitted in this District are:

- A. One-family dwellings
- B. Two-family dwellings
- C. Agriculture
- D. Family home for handicapped persons
- E. Group Home for Handicapped persons
- F. Family Day care center, child and/or adult Type B
- G. Accessory Buildings, Structures and Uses, as regulated in Section 311 and 312
- H. Signs in accordance with Section 7.
- I. Parking in accordance with Section 8.

Section 400.3 Conditionally Permitted Uses of the R-1 District

The Village Council may issue a conditional zoning certificate for the following uses subject to the general requirements of Article 10 Section 1008 and to the specific requirements of Article 10 Section 1009 referred to below:

- A. Institutions including but not limited to schools, libraries, museums, parks, playgrounds, community centers, government buildings, churches, and places of worship subject to Section 1009J.
- B. Public Safety Facility, subject to Section 1009O
- C. Recreational facilities, such as golf course, country club – public or private, subject to Section 1009N
- D. Wireless telecommunication tower or facility, subject to Section 1008
- E. Family Day Care Home type A, subject to Section 1009D
- F. Group home for handicapped persons, subject to Section 1009H
- G. Bed and breakfast, subject to Section 1009B
- H. Energy Generating Devices, subject to Section 1009F (Solar Panels attached or located on a roof or wall of building are exempt from zoning permitting process.)
- I. Home occupations, subject to Section 1009I

Section 400.4 Area, Yard and Height Regulations in the R-1 District

- A. Minimum Lot Area shall be not less than as follows:
 - 1. One family dwelling 10,000 square feet
 - 2. Two family dwelling 15,000 square feet

B. Minimum Lot Width at both the street right-of-way and building line shall be not less than as follows:

- | | |
|----------------------------------|----------|
| 1. One family dwelling | 100 feet |
| 2. Two family dwelling | 100 feet |
| 3. Cul-de-sac or curved streets* | 50 feet |

* Landscaped islands prohibited

C. Minimum Front Yard Setback 40 feet

D. Minimum Side Yard Setback 10 feet

E. Minimum Rear Yard Setback 30 feet

F. Maximum Building Height

- | | |
|--------------------------------------------------|---------|
| 1. Dwellings | 25 feet |
| 2. Accessory buildings according to Schedule 311 | |

G. Minimum Ground Floor Area

The minimum floor area, exclusive of garages and porches, shall be:

- | | |
|----------------------------------------------|--------------------------|
| 1. One family, one story dwelling | 1,000 square feet |
| 2. Two family dwelling, two story dwelling | 800 square feet per unit |
| 3. One-family, one and a half story dwelling | 800 square feet |

Section 410 Medium Density Residential District (R-2)

Section 410.1 Purpose of the R-2 District

The purpose of the R-2 District is to permit the establishment of medium density residential development consisting of single, two family dwellings and limited multi-family dwellings, not to exceed a density of eight (8) dwelling units per gross acre.

Section 410.2 Permitted Uses of the R-2 District

Uses permitted in this District are:

- A. One-family dwellings
- B. Two-family dwellings
- C. Agriculture
- D. Family Day Care Home, Type B
- E. Family home for handicapped persons
- F. Accessory Buildings, Structures and Uses as regulated in Section 311 and 312.
- G. Signs in accordance with Article 7.
- H. Parking in accordance with Article 8.

Section 410.3 Conditionally Permitted Uses of the R-2 District

The Village Council may issue a conditional zoning certificate for the following uses subject to the general requirements of Article 10 Section 1008 and to the specific requirements of Article 10 Section 1009 referred to below:

- A. Home occupations, subject to Section 1009I
- B. Day Care center, child and/or adult, subject to Section 1009D
- C. Group Home for handicapped persons subject to Section 1009H
- D. Family day care home Type A, subject to Section 1009D
- E. Multi-family housing subject to Section 1009M
- F. Senior Citizen Housing, subject to Section 1009Q
- G. Wireless telecommunication tower or facility, subject to Section 1008
- H. Institutions, including but not limited to, schools, libraries, museums, parks, playgrounds, community centers, government buildings, churches, and places of worship subject to Section 1009J
- I. Cemetery, subject to Section 1009C
- J. Bed and Breakfast subject to Section 1009B
- K. Energy Generating Devices (Solar Panels attached or located on a roof or wall of building are exempt from zoning permitting process.), subject to Section 1009F

Section 410.4 Area, Yard and Height Regulations in the R-2 District

- A. Minimum Lot Area shall be not less than as follows:
 - 1. One family dwelling 8,000 square feet
 - 2. Two family dwelling 13,000 square feet
 - 3. Multi-family dwelling 5,000 square feet per dwelling unit

- B. Minimum Lot Width at both the street right-of-way and building line shall be not less than as follows:
 - 1. One Family Dwelling 90 feet

- 2. Two family or Multi-family Dwelling 100 feet
- 3. Cul-de-sac or curved streets* 50 feet
- * Landscaped islands prohibited

- C. Minimum Ground Floor Area
 - The minimum floor area, exclusive of garages and porches, shall be:
 - 1. One family, one story dwelling 1,000 square feet
 - 2. Two family dwelling, two story dwelling 800 square feet per unit
 - 3. One-family, one and a half story dwelling 800 square feet
 - 4. Multi-family dwellings 750 square feet

- D. Minimum Front Yard Setback 30 feet

- E. Minimum Side Yard Setback 10 feet

- F. Minimum Rear Yard Setback
 - 1. One family and two family dwellings 20 feet
 - 2. Multi-family dwellings 35 feet

- G. Maximum Building Height
 - a. Dwellings 25 feet
 - b. Accessory buildings, subject to Schedule 311

Section 420 High Density Residential District (R-3)

Section 420.1 Purpose of the R-3 District

The purpose of the R-3 District is to encourage a relatively high density residential development in areas generally adjacent to the built up sections of the community or in areas of existing development of such density, and therefore to provide a more orderly and efficient extension of public facilities. The development is to consist of single family, two family and limited multi-family dwellings, not exceeding a density of eight (8) dwelling units per net acre, and only in areas served with centralized sewer and water facilities.

Section 420.2 Permitted Uses of the R-3 District

Uses permitted in this District are:

- A. One-family dwellings
- B. Two-family dwellings
- C. Family Day Care Home, Type B
- D. Family home for handicapped persons
- E. Agriculture
- F. Accessory Structures and Uses as regulated in Section 311 and 312.
- G. Signs in accordance with Article 7.
- H. Parking in accordance with Article 8.

Section 420.3 Conditionally Permitted Uses of the R-3 District

The Village Council may issue a conditional zoning certificate for the following uses subject to the general requirements of Article 10 Section 1008 and to the specific requirements of Article 10 Section 1009 referred to below:

- A. Institutions, including but not limited to schools, libraries, playgrounds, parks, museums, cemeteries, government owned and/or operated buildings, churches and other places of worship, child day care centers, nurseries, institutions for human medical care including hospitals, clinics, convalescent homes, nursing homes and philanthropic institutions subject to Section 1009J.
- B. Home occupations, subject to Section 1009I
- C. Group Home for handicapped persons subject to Section 1009H
- D. Senior Citizen Housing, subject to Section 1009Q
- E. Assisted Living Facility, subject to Section 1009L
- F. Wireless telecommunication tower or facility, subject to Section 1008
- G. Energy Generating Devices (Solar Panels attached or located on a roof or wall of building are exempt from zoning permitting process.), subject to Section 1009F
- H. Multi-family housing subject to Section 1009M

Section 420.4 Lot, Yard and Height Requirements in the R-3 District

A. Minimum Lot Area:

- | | |
|---------------------------|-------------------------------------|
| 1. Single family dwelling | 8,000 square feet |
| 2. Two family dwelling | 13,000 square feet |
| 3. Multi-family dwelling | 5,000 square feet per dwelling unit |

B. Minimum Lot Width at building line:

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- | | |
|----------------------------------|----------|
| 1. Single family dwelling | 90 feet |
| 2. Two family dwelling | 100 feet |
| 3. Multi-family dwelling | 100 feet |
| 4. Cul-de-sac or curved streets* | 50 feet |
- * Landscaped islands prohibited
- C. Maximum lot depth: Five times the lot width at the building line.
- D. Minimum Lot Frontage: 40 feet
- E. Minimum usable open space: Multi-family dwellings at least thirty percent of the actual lot area shall be devoted to usable open space.
- F. Minimum Front Yard Setback 30 feet
- G. Minimum Side Yard Setback 10 feet
- H. Minimum Rear Yard Setback 35 feet
- I. Building Height
- | | |
|--------------------------------------------------|---------|
| 1. Dwellings | 25 feet |
| 2. Accessory buildings according to Schedule 311 | |

Section 430 Business District (B-1)

Section 430.1 Purpose of the B-1 District

The purpose of the B-1 District is to encourage the development of individual and group businesses to serve the daily goods, services, institutional and recreational needs of the community and surrounding rural areas.

Section 430.2 Permitted Uses of the B-1 District

- A. Restaurants and drive-thru establishments The retail sale or handling of food and beverages of all kinds, including sale for consumption on the premises
- B. Retail Sales
- C. Professional Offices
- D. Personal Service Establishments
- E. Office Buildings
- F. Financial Institutions
- G. Appliance Repair Shops.
- H. Custom tailors, laundry or dry cleaning collection offices, self-service laundries, hand laundries, and ser repair shops.
- I. Dry cleaning, pressing or tailoring in which only non-toxic, non-explosive and non-inflammable solvents are used and no work is done on the premises for retail outlets elsewhere.
- J. Newspapers, print shops.
- K. Funeral Home
- L. Adult or child day care center
- M. Public safety facilities
- N. Public parks, playgrounds, outdoor recreational facilities
- O. Temporary events, fairs and festivals
- P. Any accessory use customarily incidental to a use authorized by this Section.
- Q. Signs in accordance with Article 7.
- R. Parking and loading in accordance with Article 8.

Section 430.3 Conditionally Permitted Uses of the B-1 District

The Village Council may issue a conditional zoning certificate for the following uses subject to the general requirements of Article 10 Section 1008 and to the specific requirements of Article 10 Section 1009 referred to below:

- A. Institutions such as schools, libraries, museums, community center, parks, playgrounds, government buildings, and other institutional uses subject to Section 1009J
- B. Churches and places of worship subject to Section 1009J
- C. Assisted Living Facility, subject to Section 1009L
- D. Garden supply sales and landscaping business, including landscaping vehicle and equipment storage, subject to Section 1009G
- E. Outdoor retail displays, subject to Section 1009P
- F. Kennels (overnight boarding), subject to Section 1009K
- G. Automotive Services: Public garages, or service stations, or lots or garages for the sale of new or used motor vehicles, subject to Section 1009A
- H. Energy Generating Devices (Solar Panels attached or located on a roof or wall of building are exempt from zoning permitting process.), subject to Section 1009F

- I. Any other building, use of service similar to the uses listed in Section 430.2 and 430.3 subject to Section 1008.

Section 430.4 Height of the B-1 District

No structure shall exceed forty-five (45) feet in height unless approved by Village Fire Department and certified by the Board of Zoning Appeals when conditionally permitted.

Section 430.5 Front Yard in the B-1 District

Front Yard Setback	15 feet measured from all street right-of-way lines
On corner lots	15 feet on both streets measured from street right-of-way lines

Section 430.6 Off Street Parking in the B-1 District

Every commercial structure shall meet the loading requirements in Article 8 Parking and Loading, and shall be provided with adequate space for the loading and unloading of trucks and other vehicles serving the proposed structure or use.

Section 440 Commercial Mixed Use District (CM)

Section 440 Purpose

The purpose of this district is to encourage a mix of retail, service, office, housing and public activities to coexist in a manner that reflects human scale and emphasizes pedestrian orientation, taking advantage of the vitality that mixed uses can bring to a community. Commercial Mixed Use Overlay Districts can serve both local and regional commercial needs, while reflecting the scale and character of the Village of Spencer in a manner that protects adjacent areas from any adverse effects.

Section 440.1 Permitted Uses

The following are permitted uses in the Commercial Mixed Use Overlay District, pursuant to any additional standards set forth herein.

A. First Floor

1. Art galleries and artist studios, provided that the area devoted to public display and retail sales of products is not less than 50% of the floor area of such use.
2. Business services, including but not limited to copying, desktop publishing, photographic services, and other similar uses.
3. Public space, including open space, public art, fountains, sculptures, and courtyards.
4. Restaurants.
5. Retail sales, including but not limited to food and beverage stores, clothing and shoe stores, camera and film processing shops, florists, jewelry stores, drug stores, furniture and home furnishings, books, periodicals, music, office supplies, hardware, video stores, sporting goods and hobbies, antique and gift shops, and other similar uses.
6. Service establishments, including but not limited to laundry and dry cleaning facilities, beauty salons and barber shops, travel agencies and shoe repair shops.
7. Banks and other financial institutions.
8. Government offices (other than fire department), including libraries, and museums.

B. Above the First Floor

1. Any use permitted pursuant to Section A. Permitted Uses above.
2. Dwelling units.
3. Professional Offices.

Section 440.2 Conditional Uses

Conditional Uses are those uses having some special impact or uniqueness that requires a careful review of their location, design, configuration, and special impact to determine the desirability of permitting their establishment on any given site. The Village Council may issue a conditional zoning certificate for the following uses subject to the general requirements of Section 440.5 Design Principles, Article 10 Section 1008 and to the

specific requirements of Article 10 Section 1009 referred to below. In order to control the mixture and locations of uses in this district, the following may be permitted only as Conditional Uses in the CM Commercial Mixed Use District:

- A. Medical offices for the treatment and aid of humans, including general or specialties, dental, optical, orthodontist, clinics, subject to Section 1009L
- B. Assisted Living Facilities, subject to Section 1009L
- C. Automatic Teller Machines (ATM), provided that when ATM's are a part of a drive through facility, they shall be regulated as part of such a facility, subject to Section 1009E
- D. Convalescent, Nursing or Rest Homes, pursuant to Section 1009L
- E. Day Care Centers, Adult or Child, subject to Section 1009D
- F. Drive-through Facilities, subject to Section 1009E
- G. Dwelling units, provided that the area devoted to first floor residential uses does not exceed 40% of the total first floor area of the buildings in the district, subject to Section 1008.
- H. Fire and police stations, subject to Section 1009O
- I. Hotels and motels subject to Section 1008
- J. Offices on the first floor subject to Section 1008.
- K. Libraries and Museums, subject to Section 1009J
- L. Recreational facilities, indoor, public or private, subject to Section 1009N
- M. Schools, Specialized Instructional, subject to Section 1009J
- N. Theaters and Assembly Halls, pursuant to Section 1009J
- O. Similar uses approved by the Planning Commission and Village Council pursuant to Section 1008.

Section 440.3 Accessory Uses and Structures

The following are permitted Accessory Uses and Structures in the CM Commercial Mixed Use District:

- A. Antennae, master radio, television and other telecommunications equipment,
- B. Antennae, single, roof-mounted or in rear yard only
- C. Entertainment, live, accessory to a permitted use
- D. Fences and Walls
- E. Landscape features (including gardens, fountains, sidewalks, benches, lighting fixtures, bike racks, small trash receptacles and landscaping materials, but excluding fences and walls).
- F. Property Maintenance, Storage, Utility and Industrial-size Waste Disposal Facilities (dumpsters), only if totally enclosed.
- G. Outdoor Dining, accessory to a sit-down restaurant.
- H. Parking, off-street, and Driveways, pursuant to Section 440.5E, Off-Street Parking Regulations Article 8
- I. Recreational Structures, accessory to a Child Day Care Center, in rear yard only.
- J. Signage, pursuant to Article 7, Sign Regulations
- K. Accessory buildings, structures and uses according to Section 313 and 314

Section 440.4 Site Plan Review Process

No zoning or building permit for new construction or interior alterations may be issued without first adhering to the site plan review process set forth in Article 11, Section 1102, Site Plan Review Procedures. The Design Principles contained in Section 440.5 below shall guide the Village of Spencer Planning Commission and the Village Council, with the assistance of the Medina County Department of Planning Services, in its review of a site plan in the Commercial Mixed Use District. The General Regulations in Section 301 shall also be considered for Commercial Mixed Use District reviews; however, the Design Principles in this Chapter shall take precedence in the instance of any conflicts.

Section 440.5 Design Principles

The following Design Principles shall guide the Village in reviewing site plans pursuant to this Commercial Mixed Use District Chapter, along with the specific standards that follow this section.

A. Building and Site Design

1. Any one building shall not exceed Six Thousand Square Feet (6,000) in area, without approval of the Planning Commission and Village of Spencer Council after completion of the site plan review process.
2. Buildings and sites are encouraged to accommodate a mixture of uses permitted in this district. A mixture of uses is encouraged not just within the overall district, but on individual parcels and within individual buildings.
3. High activity uses such as retail are encouraged on the first floor, with uses such as residential encouraged on second floors.
4. Buildings shall be designed to respect the street context, to form street walls where appropriate, and to respect or create view corridors.
5. Buildings and sites shall be designed to emphasize pedestrian scale, human scale architecture, and landscaping, while avoiding large expanses of paved areas, large featureless buildings, and monotonous or franchise-style architecture.
6. All sides of a building open to view by the public shall display a similar level of architectural quality, and shall be subdivided and proportioned using features such as windows, entrances, arcades, awnings, or other such features.
7. Plain, monolithic structures with long monotonous walls and roof plane surfaces are strongly discouraged. Wherever feasible, buildings shall be designed to provide massing configurations with a variety of different wall planes.
8. Each building facade shall incorporate design elements for each 20 horizontal feet, such as changes in color or texture; projections, recesses, and reveals; arcades or pergolas providing pedestrian interest; or equivalent elements that subdivides the wall into human scale proportions. Ground level facades facing streets or pedestrian ways should incorporate large amounts (at least 60% of the facade) of windows that permit views into the interior of the building, or display windows.
9. Building facades shall have highly visible customer service entrances that feature canopies, overhangs, arcades, distinctive roof forms, arches, display windows, or landscaped features. Primary entrances should face streets on which they are located.

10. Buildings shall have well defined rooflines with attention to architectural detail. Consideration should be given to the prevailing pattern of roofs in the area surrounding and within the district.
11. Sloping roofs, where used, shall have one or more of the following architectural features: gables, hips, horizontal or vertical breaks, or other similar techniques that are be integrated into the building architecture.

B. Building Materials

Building materials shall be limited to brick, masonry, stucco, wood, fiber cement siding, wood shingle, wood siding, cultured stone, aluminum or vinyl siding or other similar materials. Prohibited materials include, split faced block, aluminum or vinyl siding, and other similar materials.

C. Vehicular Circulation and Access

1. Circulation systems shall be designed to efficiently facilitate traffic flow, yet designed to discourage speeds and volumes that impede pedestrian activity and safety.
2. Street designs are encouraged to incorporate traffic calming devices, such as speed humps or curb bump outs, and other techniques to control traffic speed and congestion.
3. Common or shared vehicular or pedestrian access points between parcels or buildings are encouraged.
4. To the maximum extent feasible, common or shared service and delivery access shall be provided between adjacent parcels or buildings, and provided to the rear of buildings.
5. Safe and adequate site distance shall be provided at all intersections.

D. Pedestrian Access and Circulation

1. A coordinated pedestrian system shall be provided throughout the development, including connections between uses on the site, and between the site and adjacent properties and rights-of-way to encourage walkability. Pedestrian connections shall be provided to properties across streets wherever feasible.
2. The site shall be connected to adjacent properties not a part of the Commercial Mixed Use District and pedestrian facilities and walkways to the maximum extent feasible.
3. Continuous sidewalks or other pedestrian facilities shall be provided between the primary entrances to buildings, all parking areas that serve the buildings, pedestrian facilities on adjacent, neighboring properties that extend to the boundaries shared with the development, any public sidewalk along perimeter streets, or other community amenities or gathering spaces.
4. Decorative sidewalks, such as brick pavers, shall be provided at key intersections or streets.
5. Street furniture or other amenities are encouraged, such as plazas, benches, bicycle racks and decorative pedestrian light fixtures.

6. Open and public space should be provided as a mixture of green space landscaping and hardscape pedestrian areas with a goal of 20% of the site area.

E. Parking Lot Design and Layout

1. Adequate parking shall be provided, but excessive parking is discouraged. The standards contained in Article 8 shall be used as a guide, but those standards may be modified by the Planning Commission or Village Council based upon other considerations, such as shared parking options.
2. Parking shall be discouraged in front of the building and distributed between the side, and rear of buildings to the maximum extent feasible.
3. The visual impact of parking shall be minimized through the use of interior landscaped islands, and through dividing parking spaces into groupings.
4. The edges of parking lots shall be screened through landscaping or other methods, such as decorative fences.

F. Landscaping and Screening

1. Landscaping shall be provided as part of a site master landscape plan. The standards contained in Article 9 are considered to be minimum standards for this district, with additional landscaping provided where needed to mitigate off-site visual impacts or to improve the internal landscaping on the site.
2. A year round visual screen shall be provided between the site and any adjacent single family uses, except where planned pedestrian connections or vehicular driveways are provided.
3. Entryways shall be planted with ornamental plant materials such as ornamental trees, flowering shrubs, and perennials, and ground covers.

G. Streetscape Improvements

1. A Streetscape Plan shall be submitted for the entire site. The Streetscape Plan shall address the relationship between vehicular and pedestrian traffic, pedestrian facilities, public and open spaces, street and sidewalk lighting, landscaping, street furniture, trash receptacles, and transit stops.
2. The design of streets, pedestrian ways, landscaping, lighting, and street furniture shall be coordinated and integrated throughout the site.
3. Vehicular streets and driveways shall be designed to be compatible with pedestrian ways to encourage a pedestrian-friendly environment. The width of streets shall be sensitive to pedestrian scale, and shall be minimized to avoid overwhelming that pedestrian scale.
4. Site furnishings such as benches, seating, trash receptacles, bicycle racks, lighting fixtures, and tree grates shall be addressed in the Streetscape Plan.

H. Service Area and Mechanical Screening

1. The location of property maintenance, service areas and mechanical equipment shall be considered as part of the overall site design.

2. Property maintenance, service areas and mechanical equipment shall be screened from public view.
3. Accessory property maintenance buildings shall be shown on the site plan.

I. Signage

A master sign plan shall be prepared illustrating the location, type, size, and materials of all signage in accordance with Article 7.

J. Lighting

1. A lighting plan shall be prepared.
2. Lighting fixtures are encouraged to be of a pedestrian scale.
3. Lighting shall be designed to avoid spillover onto adjacent properties through the use of cutoff shields or other similar features.

Section 450 General Industrial District (I-1)

Section 450.1 Purpose of the Industrial District

The purpose of the I-1 District is to encourage and accommodate general industrial uses in the fields of research labs, repairing, storage, manufacturing, processing, wholesaling, and distribution free from the encroachment of residential and institutional uses.

Section 450.2 Permitted Uses in the I-1 District

- A. Research Activities and Laboratories
- B. Administrative, executive, financial, accounting, clerical, drafting and engineering offices.
- C. Repair Shops.
- D. Public Garages, service stations, or lots of garages for the sale, service and repair of new or used motor vehicles.
- E. Lumber yards for retail and/or wholesale lumber sales.
- F. Planing Mills
- G. Coal yards, brick and tile yards, for retail and/or wholesale sales.
- H. Contractors' yards and storage facilities, provided, however, that all equipment, tools, and facilities shall be neatly arranged or stored within a suitable building.
- I. Warehousing
- J. Grain elevators.
- K. Sexually Oriented Businesses as regulated in Section 316.
- L. Accessory buildings, structures or uses as regulated in Section 313.
- M. Any use customarily incidental to a use authorized by this section.

Section 450.3 Conditionally Permitted uses in the I-1 District

The Village Council may issue a conditional zoning certificate for the following uses subject to the general requirements of Article 10 Section 1008 and to the specific requirements of Article 10 Section 1009 referred to below:

- A. The manufacture, compounding, assembly or treatment of articles or merchandise from the following previously prepared materials:
- B. The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products except the rendering or refining of fats and oils.
- C. The manufacture of pottery or figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
- D. Foundry casting light-weight metal and not causing noxious fumes or odor.
- E. Machine shops and other metal working shops.
- F. Energy Generating Devices (Solar Panels attached or located on a roof or wall of building are exempt from zoning permitting process.), subject to Section 1009F.
- G. Other uses of a similar character to the uses listed in Section 450.2 and 450.3, and subject to such conditions in Section 1008 Overall General Standards and that the Village Council may impose.

Section 450.4 Yard and Height Regulations in the I-1 District

- A. Front Yard. Every structure shall have a front yard of no less than fifty (50) feet in depth. On corner lots the front yard requirement shall be observed on both streets.

- B. Side Yard. Every structure shall have a side yard no less than fifty (50) feet in depth.
- C. Rear Yard. Every structure shall have a rear yard of not less than fifty (50) feet in depth.
- D. Height. No structure shall exceed forty-five (45) feet in height unless approved by the Village Fire Department and certified by the Board of Zoning Appeals.

Section 450.5 Off-Street Parking in the I-1 District

Off-Street parking and loading shall be as regulated in Article 8 of this Ordinance.

Section 430.6 Signs in the I-1 District

Signs shall be regulated in accordance with the requirements of Article 7 of this Ordinance.

Section 460 Light Industrial District (LI-1)

Section 460.01 Purpose of the Light Industrial District

The purpose of the LI-1 District is to encourage the development of manufacturing and wholesale business establishments that are clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare, and operate entirely within enclosed structures and generate little industrial traffic. Research activities are encouraged. This district is further designed to act as a transitional use between heavy industrial uses and other less intensive business and residential uses.

Section 460.02 Permitted Uses

Any of the following uses, or those of a similar nature, if conducted within an enclosed building or within an area enclosed on all sides with a solid wall or uniformly painted solid/screened fence not less than eight feet (8') high:

- A. Acoustical material storage; advertising display manufacturing; agriculture; agricultural implements (repair and service); agricultural tillage (contractors); air express service warehouse; airplane (repair and storage); asbestos and asbestos products storage; asphalt siding, shingles, roofing storage; automobiles(assembly of bodies, sales, parts and supplies, repairs, storage and warehousing.)
- B. Bakers and baked goods manufacturing; balls and bearing storage; barbeque (bulk preparation and sales); beer and ale distributor (wholesale) and storage; belting (repairing); beverages (bottling); beverages (wholesale and storage); bicycles (repair); biscuit companies (manufacturing); biscuits (wholesale and storage); boat (pleasure, storage); boilers (storage); bookbinders, book publishing (printing); bottles (wholesale); boxes (sales); braces (orthopedic, manufacturing); brick storage yard; brooms (manufacturing); building contractors (equipment and material storage); burglar alarm systems (installation); bus line shops (garage, repair); business machines (manufacturing, repair service, storage and wholesale); button covering (fabrics).
- C. Cabinet makers; candy (wholesale distribution); canvas goods (fabrication); carpenter's shops and power woodworking; carpet and rug cleaners and storage; carpet and rugs (warehouse); carpet and rugs (wholesale); cement, cement products manufacturing (pipe, blocks, etc.); cement storage; cesspool builders and service equipment yard; chemicals and drugs storage and distribution; cigarette manufacture; cigarette service; cigarette manufacturing (machine rolled); cigars (wholesale and storage); cleaning compounds storage; cleaning and dyeing processing; clock factory; clothing manufacturing; coffee (wholesale and storage); coin machine manufacturing; coin machines (rental and service); cold storage; concrete contractors (storage yards); concrete products (pipe, beams manufacturing); concrete products (storage); concrete transit mixed; confectioners (wholesale); contractors equipment and supplies (storage); corsets and brassieres manufacturing; cotton seed products (storage); cranes (storage yard); crop dusting equipment yards.
- D. Dairies (distributing, commercial); dairies (pasteurization, commercial); decoration (workshop and equipment yard); department store warehouses; desks manufacturing; diaper supply service; diesel engines service, equipment and supplies (not manufacturing); disinfectants (storage and wholesale); display designers and builders

- shops; distillers (distribution, warehouse); doors, sash and trim, wood manufacturing; draperies manufacturing; drilling company equipment yards; drugs (wholesale storage); dry cleaning establishment (bulk processing); dry goods (wholesale or storage).
- E. Eggs (storage and processing); electric contractors shops; electric equipment assembly; electric plating; electric refrigeration lockers; electrical appliances manufacturing; electrical appliances repairs; enameling and painting (custom); engravers; express companies warehouses; exterminating and fumigating (commercial shops).
- F. Farm implements and machinery assembly; feed (wholesale and storage); fences (metal, wholesale and storage); fertilizers (processed, storage only); filters fabrication; fire escape contractors; firewood (storage); fish (wholesale); flags and banners manufacturing; floor refinishing (contractors shop); food processing (general, see under product listing); food products (brokers and distributors, wholesale); food products (warehouse); freight forwarders warehouses; frozen foods processing; frozen foods (wholesale, storage and distribution); fruit and vegetable juice processing; fruit and vegetable market (wholesale); fruit and vegetable processing (general, see under products listing); fur warehouse; furnaces (cleaning and repairing shops); furniture cleaners; furniture (repairing and refinishing); furniture (wholesale and storage); furs manufacturing (cutting and assembly).
- G. Garment factory; glass blowing; grocers (warehouse); grocers (wholesale); gunsmiths (repairs). Harness repair; hat manufacturing; hay and straw (sales and storage); heating and ventilating apparatus (assembly and storage); hoists (equipment storage); horseshoeing; hosiery manufacturing; hotel equipment (assembly and custom fabrication); house movers (equipment storage yards).
- I. Ice cream manufacturing; imported goods (warehouse); insecticides (storage and distribution); insulation (contractors equipment yard, storage and wholesale); interior decorators (workshops); iron (custom decorative wrought iron shops); irrigation companies and equipment.
- J. Janitors supplies (storage and warehouse); jewelers (bulk manufacturing); jobbers (bulk materials).
- K. Knit goods manufacturing.
- L. Laboratories (commercial, analytical, experimental and research); ladies ware manufacturing; laundries (processing); laundry equipment and supplies storage; leather goods (manufacturing, fabrication); limb manufacturing (artificial); lime storage; linen supply laundry service; linoleum storage; liquor (storage and wholesale); lithographers; livestock (supplies, storage and wholesale); locksmiths repair shops; loft buildings; lubrication compounds (storage); lumber (cabinet workings); lumber storage yard; lumber (used and wholesale).
- M. Machine shops; machine tools (storage); machinery rental; machinery (used, storage); markets (exchanges of goods); meat (storage and wholesale); men's clothing manufacturing; metals, processing, light fabrication from standard shapes; machine shop operations, plating, custom and replating, products fabrication and assembly; meters manufacturing, milk bottling plant (other than farm); milliners (wholesale and manufacturing); millinery and artificial flower making; mill work (sale and storage); mirrors (re-silvering, custom work); model construction supplies and manufacturing; mortar (bulk preparation and sales); motion picture equipment (storage and

- manufacturing); motion picture studios; motor freight company warehouses; motorcycles (repairing and sales); mover (warehouses).
- N. Newspaper printing; noodle manufacturing; notions (manufacturing, wholesale); novelties (manufacturing and wholesale); nuts (edible, processing).
- O. Office equipment manufacturing (see also business machines); office furniture (storage and warehouses); oil burners (installation and repair); optical goods manufacturing; ornamental metal work (custom hand fabrication); orthopedic appliances manufacturing; overall manufacturing.
- P. Packing, crating service fabrication; painters equipment and supplies (shops, wholesale and storage); paper storage; paper products (wholesale and storage); pattern shop; paving contractors equipment and storage; paving materials storage yard; photo engraving company, pickles (processed, wholesale and storage); pipe (used, storage and sales); pipe (concrete, manufacturing and storage); pipe (metal storage); plasterer (wholesale and storage); plating works (precious metals); plumbers shops; plumbing fixtures and supplies (wholesale and storage); popcorn manufacturing; potato chips manufacturing; poultry supplies (wholesale and storage); printers equipment and supplies; wholesale product (garden); wholesale produce (warehouse); pumps (repairing and rental); printer.
- Q. Quick freeze plant; quilt (manufacturing).
- R. Radio equipment assembling; radio repair shop; refrigeration equipment custom installation; refrigerators (servicing); refrigerators (wholesale, storage); restaurant equipment (installation and repair); road building equipment (storage yard); rubber stamps manufacturing.
- S. Scaffolds (equipment and storage); scales (commercial weighing); school equipment and supplies (wholesale); screens, doors and windows manufacturing; screw and bolt manufacturing; seed (wholesale and retail garden supplies); septic tanks (contractors, construction); service station equipment (wholesale); sewer pipe storage; sheet metal work (custom fabrication); shirt factory; shoe repairing equipment and supplies (wholesale); shoe manufacturing; sign erectors (contractors shops); sign painters shops; sign maintenance service shops; signs (neon and metal fabrication); skylights (custom manufacturer); slip covers (custom manufacturing); soaps (wholesale and storage); sporting goods manufacturing; soda water manufacturing; specialties (see coin machines); spices (wholesale and storage); spraying supplies equipment yard; springs (replacement and repairs); stair builders (wood); steel awnings (custom manufacturing); steel erectors equipment yards; steel fabricators (light sections); storage warehouse; storage shops, store and office fixtures (contractors shops); stoves and ranges (wholesale and storage); surgical supplies (wholesale distributors).
- T. Tank coating equipment yard, tanks (erection, contractors yard); taxidermists; tents and awnings and manufacturing; termite control contractor shops; terrazzo contractor shops; thermometers manufacturing (wholesale, storage); tool grinding and sharpening; tools (wholesale and distribution); towels (supply and service); tractors (rentals); trailers (repairing); transfer business; truck freight movers (see express also); trunks manufacturing.
- U. Underwear (wholesale and manufacturing); upholsterers (custom).
- V. Wall board (wholesale and storage); wallpaper manufacturing; warehouses; watches manufacturing; water (distilled, processing); water (mineral, drinking or curative, bottling and distribution) water coolers (drinking fountains, repair and service); water

- heaters (service and repairing); water softening equipment (service and repairing); water supply systems (contractors shops); waterproofing (material, storage); weighers (commercial); welding (commercial); welding (equipment and supplies storage) well drilling (equipment yard); wholesale produce storage or market; commercial winches (equipment rentals); window display (installations, studio and shops); wines (storage, bottling and wholesale); wood (storage yard); woodworking (cabinet and custom millwork); woodworking (equipment, wholesale); woven goods (fabrication and assembly).
- W. Restricted Manufacturing.
- X. Research and Development Facilities.
- Y. Printing.
- Z. Commercial Semi-Truck Sales and Service.
- AA. Agricultural or Construction Related Equipment Sales and Service.
- BB. Warehousing.
- CC. Other uses of a similar nature.

Section 460.03 Conditional Use

The Village Council may issue a conditional zoning certificate for the retail operations not requiring a separate building or structures that are directly related and subordinate to any use permitted under this section, subject to the general requirements of Article 10 Section 1008 and to the specific requirements of Article 10 Section 1009, where applicable. The commencement duration of any such conditional use shall be coterminous with the permitted use to which it is related.

Section 460.04 Building Height

Buildings shall not exceed thirty-five feet (35') in height. Chimney, tanks, communication and other type towers may be permitted to a greater height according to Section 310, or upon approval by the Zoning Board of Appeals.

Section 460.05 Lot Area, Width and Yard Requirements

A. Lot area, frontage and width

1. Every lot in an LI-1 District shall contain a minimum area of one (1) acre and a lot frontage and width of one hundred feet (100').

B. Corner Lots

1. On a corner lot, the principal building and its accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yards in the district which the structures are located.

C. Yards Required

1. Yards of the following widths or depths shall be provided for all permitted uses unless permitted by this Ordinance.

a) Front Yard

The minimum setback building line shall be fifty feet (50') from the street right-of-way line, and shall be appropriately landscaped and maintained. Such minimum space shall remain open and unoccupied by any principal or accessory building or use including parking areas, other than driveways and sidewalks.

b) Side Yards

- i. There shall be two (2) side yards, each having a width of not less than twenty-five feet (25') as measured from the side lot line to the nearest point of any structure. Where the lot abuts any residential district, there shall be fifty feet (50') on the side abutting the residential district. In addition, there shall be a buffer strip constructed on the side yard that abuts any residential district.
- ii. The buffer strip on the side yard that abuts any residential district shall be constructed in accordance with the requirements of the Planning Commission. It is intended that there be a mounded tree barrier with adequate trees planted so as to visually obstruct the view as between the residential district and the light industrial district. The buffer strip requirement in a LI-1 District shall be installed and completed by the developer at the start of any development project.

c) Rear Yards

- i. There shall be a rear yard of not less than fifty feet (50'). Rear yards used for parking shall be appropriately surfaced with a durable dust-free material (asphalt or concrete) and shall be graded and drained to dispose of all surface water in the area.
In addition, there shall be a buffer strip constructed on the rear yard that abuts any residential district.
- ii. The buffer strip on the rear yard that abuts any residential district shall be constructed in accordance with the requirements of the Planning Commission. It is intended that there be a mounded tree barrier with adequate trees planted so as to visually obstruct the view as between the residential district and the light industrial district. The buffer strip requirement in a LI-1 District shall be installed and completed by the developer at the start of any development project.

Section 460.06 Permitted Signs

The provisions of Signs Article 7 of the Spencer Village Zoning Ordinance shall apply in this district.

Section 460.07 Off-Street Parking and Loading Requirements

The provisions of Parking Article 8 of the Spencer Village Zoning Ordinance shall apply in this district.

Section 460.08 Percentage of Lot Coverage

Buildings, together with their accessory uses and enclosed structures in an LI-1 District, shall cover not more than forty percent (40%) of the area of any lot.

Section 460.09 Requirements for Fire Department

In any LI-1 District, the following requirements shall be completed:

- A. Fire hydrants shall be installed every four hundred feet (400') to six hundred feet (600') along any developed street.
- B. Any facility in a LI-1 District that utilizes or handles specialized or hazardous materials or agents shall provide the local fire department adequate training for addressing fire emergencies that are presented by these materials or agents and shall have available for use by the fire department any specialized agents other than water that may be needed to put out a fire caused by these hazardous materials or agents.
- C. Fire hydrants installed in the LI-1 District shall be installed utilizing a loop system; the loop system shall be installed and completed when engineers hired by the Village determine that completion of the loop system is reasonably necessary.

Section 460.10 Submission of Plans

The provisions of Articles 11 and 12 of the Spencer Village Zoning Ordinance shall be in full force and effect in this district.

Section 460.11 Site Plan Review

A site plan and site plan review shall be required in the LI-1 District. The site plan and site plan review shall be conducted in accordance with the provisions of Article 11 of the Spencer Village Zoning Ordinance.

Section 460.12 Landscaping

Landscaping in the LI-1 District shall be provided in accordance with Article 9 of the Spencer Village Zoning Ordinance.

Section 460.13 Communication Towers and Antennas Permitted in Industrial Zoning Districts

Communication towers, antennas, and base units are allowed as a permitted use in all industrial zoning districts, provided they meet the following requirements:

- A. Freestanding communication towers and antennas, including antennas mounted on light poles and similar structures that are not façade-mounted, provided that towers and antennas do not exceed one hundred feet (100').

- B. The tower site and setback shall be of adequate size to contain guyed wires, debris, and the tower in the event of a collapse.
- C. Communication towers shall maintain a minimum distance from the nearest residential structure equal to twice the height of the tower. For the purposes of this article, residential structures shall also include any parking or accessory structure attached to Landscaping in the LI-1 District shall be provided in accordance with Article 9 of the Spencer Village Zoning Ordinance.
- D. a principal residential structure.
- E. No part of any communication tower, antenna, base unit, equipment, guyed wires or braces shall extend across or over any part of a public right-of-way.
- F. Communication towers, antennas, and base units shall comply with applicable regulations as established by the Federal Aviation Administration and minimum yard requirements of the district in which they are located.

Article 5 Generalized Schedule of District Regulations

Schedule 501 District Regulations

Zoning District	Type of Permitted Uses*	Minimum Lot Size	Minimum Lot Width at Street	Minimum Lot Width at Setback	Front Yard Setback**	Side Yard Setback	Rear Yard Setback	Maximum Building Height
R-1 Sec 400	Single Family Two Family	10,000 sf 15,000 sf	100' 100' 50' ²	100' 100'	40' 40'	10' 10'	30' 30'	25' 25'
R-2 Sec 410	Single Family Two Family Multi-Family	8,000 sf 13,000 sf 5,000 sf Per dwelling unit	90' 100' 100' 50' ²	90' 100' 100'	30' 30' 30'	10' 10' 10'	20' 20' 10'	25' 25' 25'
R-3 Sec 420	Single Family Two Family Multi-Family	8,000 sf 13,000 sf 5,000 sf Per dwelling unit	40' 40' 40'	90' 100' 100'	30' 30' 30'	10' 10' 10'	10' 10' 10'	25' 25' 25'
CM Sec 430	Commercial Mixed Use	Section 440 – Approval at Site Plan Review Process						
B-1 Sec 440	Commercial Retail Office	--	--	--	15'	--	--	45'
I-1 Sec 450	General Industrial				50'	50'	50'	45'
LI-1 Sec 460	Light Industrial	1 acre	100'	100'	50'	25' ¹ 50' ^{***}	50' ¹	--

***Schedule does not list all permitted uses nor any conditional uses. See district regulations (Article 4) for complete listing of Permitted and Conditionally-Permitted Uses.**

**** Measured from public road right-of-way.**

***** Measured from any residential district boundary.**

¹ Landscape buffer required per Article 9.

² On cul-de-sac or curved street.

Article 6 Non-Conforming Uses

Section 600 Intent

Within the districts established by this Ordinance or amendments that may later be adopted there exists lots, uses of land, structures, and uses of structures and land in combination which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconforming buildings, structures or uses to continue based upon the following requirements.

Section 601 Nonconforming Lots of Record

- A. Residential In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.
- B. Business and Industrial Any parcel being a lot of record on or before the effective date of these regulations and containing less than ten thousand (10,000) square feet in area shall not be issued a permit for Business or Industrial use except upon approval of the Board of Zoning Appeals. Any parcel being of lot of record on or before the effective date of these regulations and containing ten thousand (10,000) square feet or more, conforming to all front, side and rear yard requirements and permitted uses of that Business or Industrial District may be issued a permit for Business or Industrial use upon review by the Zoning Inspector in accordance with requirements listed in this Ordinance.
- C. Variances of requirements listed in this Ordinance other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in Sections 1207 and 1208.

Section 602 Nonconforming Lots of Record in Combination

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this Ordinance.

Section 603 Continuation of Nonconforming Use of Buildings, Structures or Land

The lawful use of any building, structure, or land existing at the time of the enactment of this Ordinance may be continued although such use does not conform with the provisions of this Ordinance, provided the following conditions are met:

- A. **Unsafe Structures** Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this Article 6 shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- B. **Alterations and Enlargements** A nonconforming building, use or structure may be altered, improved or reconstructed or enlarge as to extend such use or structure not to exceed an additional twenty-five (25) percent in square foot area, upon application and approval by the Zoning Inspector. Such alteration or enlargement shall be constructed in compliance with the current regulations of the district in which the nonconforming building, structure or use is permitted.
A nonconforming use shall not be enlarged so as to encroach upon any adjacent or contiguous lot of record.
- C. **Extension** The extension of a lawful use to any portion of a nonconforming building or structure which existed prior to the enactment of this Ordinance shall not be deemed the extension of such nonconforming use. However, such extension shall be made in compliance with the current regulations of the district in which the nonconforming building, structure or use is permitted.
- D. **Changes** A nonconforming use may be changed to another nonconforming use, provided that the proposed nonconforming use is equal to or in less conflict with the character and use of the district than the existing nonconforming use as determined by the Board of Zoning Appeals.
- E. **Construction Approved Prior to Ordinance** Nothing herein contained shall require any change in plans, construction or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently performed within ninety (90) days from the date of said permit.
- F. **Restoration** Nothing in this Ordinance shall prevent the reconstruction, repairing, rebuilding and continued use of any nonconforming building or structure damaged by fire, collapse, explosion, or natural hazards, subsequent to the date of this Ordinance, provided that the restoration or repair does not extend the nonconforming use in square foot area, except as permitted in Section 603B.
- G. **Abandonment** A nonconforming use of a building or premises which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned:
 - 1. When the nonconforming use has been discontinued for a period of two years or more,
 - 2. When it has been replaced by a conforming use, or
 - 3. When it has been changed to another use as approved by the Board of Zoning Appeals.

Section 604 Displacement

No nonconforming use shall be extended to displace a conforming use except as otherwise provided in 603B.

Section 605 Certificate of Nonconforming Use

Upon the effective date of this Ordinance, the Zoning Inspector shall issue a "Certificate of Nonconforming Use" to all known owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.

- A. In accordance with the provisions of this section, no use of land, buildings or structures shall be made other than that specified on the "Certificate of Nonconforming Use" unless said use shall be in conformity with the provisions of the district in which the property is located, or approval of a use change has been given by the Board of Zoning Appeals in conformance with Article 6.
- B. A copy of each "Certificate of Nonconforming Use" and any accompanying documentation shall be filed in the office of the Zoning Inspector.

Section 606 District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the preceding provisions shall also apply to any nonconforming uses existing therein.

Section 607 Uses Under Conditional Use Provisions Not Nonconforming Uses

Any use which is permitted as a conditional use in a district under the terms of this Ordinance shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

Section 608 Converting Nonconforming Residential Use to Commercial Use

For any use that is being converted from a nonconforming residential use to a commercial use all zoning regulations per the district in which the use is located shall be adhered to. A zoning permit application shall be submitted to the Zoning Inspector for approval of such conversion. Any conversion must in compliance with the Medina County Building Code.

Article 7 Signs

Section 700 Purpose

The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment and enhance community development.

Section 701 Governmental Signs Excluded

For the purpose of the Ordinance, “sign” does not include signs erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance or governmental regulation.

Section 702 General Requirements for All Signs and Districts

The regulations contained in this section shall apply to all signs and all use districts.

- C. Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or light device be placed or directed so as to permit the beams and illumination there from to be directed or beamed upon a public thoroughfare, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- D. No sign shall employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention.
- E. All wiring, fittings and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the Ohio Building Code.
- F. No projecting sign shall be erected or maintained from the front or face of a building a distance of more than two (2) feet, including those projecting from the face of any theater, hotel or motel marquee.
- G. No sign shall be placed on the roof of any building, except those signs whose supporting structure is screened so the sign appears to be a continuation of the face of the building. Such signs shall be considered part of the building and subject to all requirements and limitations including but not limited to maximum height requirements.
- H. No portable or temporary sign shall be placed on the front or face of a building or on any premises, except as provided in Section 807 herein.
- I. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving devices. Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign.

- J. No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than twenty (20) percent of the window surface.
- K. No sign of any classification shall be installed, erected, or attached in any form, shape or manner to a fire escape or any door or window giving access to any fire escape.
- L. All signs hung and erected shall be plainly marked with the name of the person, firm or corporation responsible for maintaining the sign,
- M. Should any sign be or become unsafe or be in danger of falling, the owner thereof or the person maintaining the same, shall upon receipt or written notice from the Zoning Inspector proceed at once to put such sign in a safe and secure condition or remove the sign.
- N. No sign shall be placed in any public right-of-way except publicly-owned signs, such as traffic control signs and directional signs. Signs directing and guiding traffic and parking on private property shall be permitted on any property.
- O. No sign shall be erected that in the decision of the Zoning Inspector or Village Council would impair a vehicle driver's visibility.

Section 703 Measurement of Signs

- A. The area of the sign to be measured shall be the area included within the vertical and horizontal line projection of any logos, letters or other symbols intended to be read together, composed of the total area of the message and any border, trim or surface upon which the message is displayed. There may be several sign areas on the wall of a building depending upon how a sign is displayed.
- B. For a freestanding sign, the sign area shall include the frame, if any, but shall not include:
 - 1. A pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or a part of a display device.
 - 2. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.

Section 704 Sign Maintenance

All signs shall be maintained in accordance with the following:

- A. The property owner shall maintain the sign in a safe and orderly condition for the intended use in accordance with the approved zoning permit.
- B. Each sign shall contain the name, address and telephone number or email of a firm or person responsible for erecting the sign. Such information shall be placed on the frame or other supports and large enough to be read by a person standing on the ground.
- C. Whenever a sign is required to be removed for the purpose of repair, refurbishing or repainting, the same may be done without a permit or payment of fees provided the dimensions and face of the sign do not change.

Section 705 Signs Permitted in All Districts Not Requiring a Permit

- A. One permanent, unlighted sign not exceeding four (4) square feet shall be permitted per lot or parcel of land.
- B. A maximum of three (3) temporary signs not exceeding four (4) square feet per sign in area per lot or parcel of land.

Section 706 Signs in Residential Districts Requiring a Permit

- A. One permanent, unlighted sign not exceeding sixteen (16) square feet in area per lot or parcel.
- B. One freestanding sign at each entrance to a residential development, not to exceed thirty-two (32) square feet in area and not to exceed six (6) feet in height.

Section 707 Signs in Commercial and Industrial Districts Requiring a Permit

The regulations set forth in this section shall apply to signs in all commercial and industrial districts and such signs shall require a permit.

- A. In a commercial or industrial district, each business shall be permitted one permanent flat or wall on-premises sign. Projection of wall signs shall not exceed two feet measured from the face of the main building. The area of all permanent on-premises signs for any single business enterprise may have an area equivalent to one and one half (1 ½) square feet of sign area for each lineal foot of building width, or part of a building, occupied by such enterprise but shall not exceed maximum area of one (100) square feet.
- B. In addition, one permanent free-standing on-premises sign not over twenty-five (25) feet in height, having a maximum total sign area of one hundred (100) square feet per display area and located not closer than ten (10) feet to any street right-of-way line and not closer than thirty (30) feet to any adjoining lot line may be erected in a commercial or industrial district. There shall be only one free-standing sign for each commercial site, regardless of the number of businesses conducted on the site. The placement of a freestanding sign may be located in any required landscaping or buffer strip.
- C. Temporary signs not exceeding forty-eight (48) square feet in area, may be erected for a period of sixty (60) days.

Section 708 Temporary Signs

- A. Unless otherwise permitted herein, free-standing temporary signs shall not exceed six (6) feet in height nor shall such signs be located closer than ten (10) feet from the front or any side lot line. Temporary signs must conform with the permanent sign placement requirements.
- B. One temporary free-standing sign may be erected on a site during construction or reconstruction of a building for which a valid building permit has been obtained. Such sign shall not exceed thirty-two (32) square feet in area not eight (8) feet in height. Each sign shall be located a minimum of fifteen (15) feet from any street right of way or property line and shall be removed within five (5) days after permanent occupancy of the building.
- C. Such temporary signs shall conform to the general requirements listed in Section 802.

D. Two temporary signs are permitted for a period not to exceed sixty (60) days for each sign, and require a permit.

Section 709 Wall Signs Pertaining to Non-Conforming Uses

On-premises wall signs pertaining to a non-conforming use shall be permitted on the same premises of such use, provided the area of such sign does not exceed twelve (12) square feet.

Section 710 Sign Setback Requirements

Except as modified in Sections 711 - 713, on-premises signs where permitted shall not be located within the established right-of-way line of any thoroughfare provided such signs do not obstruct traffic visibility at street or highway intersections.

Section 711 Increased Setback

For every square foot by which any on-premises sign exceeds fifty (50) square feet, the setback shall be increased by one-half (1/2) foot but need not exceed one hundred (100) feet.

Section 712 Special Yard Provisions

On-premises signs where permitted shall be erected or placed in conformity with the side and rear yard requirements of the district in which located, except that in any residential district, on-premises signs shall not be erected or placed within twelve (12) feet of a side or rear lot line. If the requirement for a single side yard in the appropriate zoning district is more than twelve (12) feet, the latter shall apply.

Section 713 Violations

In case any sign shall be installed, erected, constructed, or maintained in violation of any of the terms of this Ordinance, the Zoning Inspector shall notify in writing the owner or lessee thereof to alter such sign so as to comply with this Ordinance. Failure to comply with any of the provisions of this Article shall be deemed a violation and shall be punishable under Section 1420 of this Ordinance.

Article 8 Parking and Loading Regulations

Section 800 Off-Street Parking Regulations

Off-street parking facilities shall be provided for every use or part thereof in all districts as prescribed in this section. Where the parking requirements for a use are not specifically defined herein, or a use is not mentioned, the parking requirements for such use shall be determined by the Planning Commission and such determination shall be based upon the requirements for the most comparable use specified herein and based on review and consultation with the applicant when necessary.

Section 801 Minimum Number of Off-Street Parking Spaces Required

For the purpose of computing the number of parking spaces required, floor area shall mean that area used for service to the public in offices, merchandising and service types of uses; excluded are areas used principally for nonpublic purposes such as storage, incidental repair, processing, show windows, rest rooms, and dressing rooms. In measuring for parking space, fractions of required floor area over one-half shall require one parking space.

Section 802 Schedule of Required Spaces

Type of Use	Parking Spaces Required
A. Residential	
1. Single family and two-family	Two for each unit
2. Multi-family	Two for each dwelling unit
3. Senior Citizen dwelling	One for each unit
4. Assisted Living Facility	One for each unit
5. Adult Family home and Family home for handicapped persons	One for each unit
6. Family Day Care Home	One for each bed or unit
7. Child and/or adult day care center	One for each employee and drop off or waiting spaces*
8. Group home for handicapped persons	One for each bed or unit
9. Mobile home park	Two for each mobile home site
10. Rooming houses, lodging or boarding houses	One for each sleeping room
11. Boarding houses, Hotels, motels, and tourist homes or cabins	One for each sleeping room plus one space for each two employees
12. Bed and Breakfast	One for each sleeping room plus one space for each two employees
B. Business	
1. Professional offices, banks and financial institutions	One for each 200 square feet of Floor area
2. Funeral Home and mortuaries	Two per chapel room or parlor or one space per 200 square feet of floor area of rooms used for services, or whichever is greater

3. Retail Establishments	One parking space for each 200 square feet of Floor area
4. Beauty parlors and barber shops	Two for each chair
5. Laundromats	One for each two washing machines
6. Restaurants	One for each two seats of seating capacity, plus 5 spaces for carry-out or delivery facilities, plus 1 space for every three employees
7. Taverns, lounges and bars	1 space per 2 seats of bar area plus restaurant parking if applicable
8. Farm market	1 space for each 200 sq. ft. of floor area
9. Kennels	1 space for each 1,000 sq. ft. of floor area
10. Sexually Oriented Businesses	1 space for each 200 sq. ft. of floor area
C. Recreational or Entertainment	
1. Indoor recreational facility	1 space for every four seats and/or 1 space for 200 sq. ft of floor area
2. Outdoor recreational facility	1 space for every 3 bleacher seats or 1 space for every 1,000 sq. ft of activity area used for recreational purposes
3. Bicycle rental	1 space for every 400 square feet of floor area
4. Private clubs, Lodges, and other assembly halls without fixed seats	One for each four seats based on maximum seating capacity; one for every 3 permanent seat, and 1 space for each employee
5. Auditoriums, stadiums and similar uses	One for each five person capacity, plus one for each four seats or one for each 30 square feet of floor area used for seating, whichever is greater
6. Outdoor swimming pools, public or community or club	1 space for every 1,000 square feet of floor area
D. Institutional	
1. Churches and other places of religious worship	One for each four seats in principal auditorium, based on maximum seating capacity
2. Hospitals	One for each bed
3. Medical offices for human aid and treatment,	One for every 200 square feet of floor area of examination, treating room, office and waiting room
4. Nursing homes, and convalescent homes	One for each two beds and for every two employees
5. Libraries, museums, art galleries	One for each 400 square feet of floor area
6. Public safety facility or other governmental offices	One for each 200 square feet of floor area

E. Schools

(public, private or specialized instruction)

- | | |
|------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| 1. Elementary and junior high schools | Two for each classroom, and one for every eight seats in auditoriums or assembly halls |
| 2. Senior High Schools | One for every ten students, and one for each teacher and employee |
| 3. Kindergartens, child care centers, nursery schools and similar uses | Two for each classroom, but not less than six for the building, and drop off or waiting spaces* |
| 4. Business, technical and trade schools | One for each two students |
| 5. Specialized instruction | Two for each classroom; one for each instructor and drop off or waiting spaces* |

F. Industrial

- | | |
|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 1. All types of manufacturing, storage and wholesale uses permitted in any industrial district | One for each employee on the maximum work shift |
| 2. Cartage, express, parcel delivery and freight terminals | One for every two employees (on the largest shift for which the building is designed, plus one for each motor vehicle used in the business) |
| 3. Mini-storage facilities | 1 space for every 10 storage units plus 1 space for office |
| 4. Warehouse | 1 space for 200 sq. ft. of floor area for office space, plus 1 space for 1,000 sq. ft. of floor area |
| 5. Other industrial uses | 1 space for 1,000 sq. ft. of floor area |

G. Vehicular Services

- | | |
|---------------------------------------------------------------|---------------------------------------|
| 1. Automobile, truck, boat, trailer and farm implement sales | 1 space for every vehicle |
| 2. Gasoline stations | 1 space for each employee |
| 3. Automobile repair garage | 1 space for 400 sq. ft. of floor area |
| 4. Car Wash Facilities | 1 space for each employee |
| 5. Landscaping and Construction Vehicle and Equipment Storage | 1 space for each garage stall |

H. Other Uses

- | | |
|-------------------------------|--------------------------------------|
| 1. Temporary buildings | 1 space for 400 sq. ft of floor area |
| 2. Temporary uses | Existing parking facilities |
| 3. Tents, Fairs and Festivals | Exhibit parking facilities |
| 4. Model Homes | 4 Parking spaces |

*Drop off or waiting spaces according to Section 804F

Section 803 Off-Street Parking Space Area

- A. Off-street parking areas shall have parking spaces not less than two hundred (200) square feet in area exclusive of access drives or aisles and shall be functionally arranged and provided with adequate maneuvering lanes.
- B. The width of aisles between rows of parking spaces shall not be less than twenty-four (24) feet.
- C. Wheel guards shall be provided at the perimeters of the parking lot to prevent vehicle bumpers from overhanging the property line, or required landscaped setbacks.

Section 804 Off-street Waiting Areas for Drive-Through Services

Establishments which by their nature create lines of customers waiting to be served within automobiles (storage areas) shall provide in-line vehicle storage areas in accordance with the following requirements, in addition to the specific regulations set out above:

- A. Restaurants, drive-thru beverage docks, and other similar commercial establishments that can normally serve customers in three (3) minutes or less shall provide no less than five (5) waiting spaces per window. Drive-in restaurants and other similar uses which require an additional stopping point for ordering shall provide a minimum of three (3) additional waiting spaces for each such stopping point.
- B. Other commercial establishments such as photo printing services, banks and other financial institutions with ATM service or drive-up windows shall provide no less than four (4) waiting spaces per window or ATM machine.
- C. Self-serve automobile washing facilities shall provide no less than three (3) waiting spaces per stall. All other automobile washing facilities shall provide a minimum of six (6) waiting spaces per entrance.
- D. Motor vehicle service stations shall provide no less than two (2) waiting spaces for each accessible side of a gasoline pump island. Gasoline pumps shall not be located closer than thirty (30) feet from any street right-of-way line.
- E.. Automobile service stations that provide service to customers who wait in the vehicle while the service is performed shall provide no less than three (3) waiting spaces for each service bay.
- F. Adult or child day-care facilities or schools shall provide no less than three (3) drop off and/or waiting spaces.
- G. At no time shall vehicles be permitted to wait within the public right-of-way for service at such drive-in or drive-thru facilities.

Section 805 Joint or Collective Parking Facilities

The joint or collective provisions of required off-street parking areas shall comply with the following standards and requirements:

- A. All required parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not farther than 500 feet from the building served.
- B. Not more than fifty (50) percent of the parking spaces required for restaurants, taverns and similar uses, and up to 100% of the parking spaces required for churches, schools, auditoriums and similar uses may be provided and jointly used by banks,

offices, retail stores, personal service establishments and similar uses that are not normally open, used or operated during the same hours as the uses with which such spaces are jointly or collectively used when both parties agree to such shared parking arrangements.

- C. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a permanent easement thereby assuring the retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by legal counsel, and filed with the application for a zoning permit or conditional use permit.

Section 806 Land banking

Land banking of currently unneeded parking spaces is strongly encouraged. As part of the site plan review process, the applicant shall show the area to be banked on the site plan and marked as “land banked future parking”. Sufficient parking shall be required to meet the current needs of the use.

Section 807 Loading Space Requirements and Dimensions

A loading space shall have minimum dimensions of not less than (12) feet in width, fifty (50) feet in length, exclusive of driveways, aisles and other circulation areas, and a height of clearance of not less than fifteen (15) feet. One off-street loading space shall be provided and maintained on the same lot for every separate occupancy requiring delivery of foods and having a modified gross floor area of up to five thousand (5,000) square feet. One loading space shall be provided for each additional ten thousand (10,000) square feet or fraction thereof.

Section 808 Paving

The required number of parking and loading spaces as set forth in Section 803 and 804 together with driveways, aisles and other circulation areas, shall be improved with such bituminous, concrete or equivalent surfacing to provide a durable and dust-free surface.

Section 809 Drainage

All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.

Section 810 Maintenance

The owner of property used for parking and/or loading shall maintain such area in good condition without holes and free of all dust, trash and other debris.

Section 811 Lighting

Any parking and/or loading area which is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be arranged so as to reflect the light away from the adjoining property.

Section 812 Screening and/or Landscaping

Whenever a parking area is located in or adjacent to a residential district it shall be effectively screened on all sides which adjoin or face any property used for residential purposes, by an acceptably designed wall, fence or planting screen. Such fence, wall or

planting screen shall be not less than four (4) feet nor more than six (6) feet in height and shall be maintained in good condition. The space between such fence, wall or planting screen and the lot line of the adjoining premises in any residential district shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition.

Entrances and Exits.

- A. Entrances and exits shall be located to minimize traffic congestion and avoid undue interference with pedestrian access at street intersection corners.
- B. There shall not be more than two (2) access ways abutting on any one (1) street, except that one (1) additional access way shall be permitted for developments with five hundred (500) feet or more of road frontage provided the proper approvals are obtained from Village, County or State authorities.
- C. Access ways shall not be less than twenty-seven (27) feet in width at the sidewalk line nor more than thirty-five (35) feet at the curb cut line of street, with the exception of the following:
 - 1. Access ways in an I-1 district may exceed 35 feet for warehouses, industrial and manufacturing facilities, when necessary, but shall not exceed 60 feet.
 - 2. Emergency access driveways may be less than 27 feet when approved by the Fire Department.

Article 9 Landscaping

Section 901 Landscaping Requirements

Consistent with the objectives established in this Article, landscaping shall be provided according to the following standards for the following districts, with the new construction, enlargement, addition, or alteration of any principal building:

- A. R-3 High Density Residential District
- A. CM Commercial Mixed Use District
- C. B-1 General Business District
- D. LI-1 Light Industrial District
- E. I-1 General Industrial District

Section 902 Special Exceptions

The Village of Spencer shall recognize that, in some cases, the landscaping requirements may be difficult or impractical to meet due to specific site characteristics. In these cases, an alternative landscaping plan may be approved by the Planning Commission as part of the site plan review process.

Section 903 Screening of Service Courts, Storage Areas, and Loading Docks

For all uses that include areas used for service, loading, and unloading activities, such areas shall be screened along the entire rear lot line and side lot lines from the rear lot line to the rear building line to the following minimum standards:

- A. The width of the screening area shall be a minimum of five feet (5'). Screening shall consist of walls, hedges, fences, vegetation, or an acceptable combination of these elements, provided that screening must be at least seven feet (7') in height.
- B. Vegetation used for screening shall have a minimum opaqueness of seventy-five percent (75%) at all times within two (2) years of planting.

Section 904 Screening of Trash Container Receptacles.

Trash containers shall be screened according to the following minimum standards:

- A. Trash containers designed to service more than one (1) residential unit or to service a non-residential structure shall be screened on four (4) sides by walls, fences, gates, or natural vegetation or an acceptable combination of these elements.
- B. The height of such screening shall be at least six feet (6'). The maximum height of walls and fences shall not exceed ten feet (10'). Vegetation shall have a minimum opaqueness of seventy-five percent (75%) at all times within two (2) years of planting. The use of evergreen vegetation is encouraged. Vegetation shall be a variety and size that will attain six feet (6') in height within two (2) years of planting.

Section 905 Interior Parking Area Landscaping

Landscaping within parking areas, whether ground cover or upright plant material, is necessary not only to reduce the generation of heat and water runoff, but to break up visually the expanse of paved areas. The use of parking islands or peninsulas strategically placed throughout the parking lot is required to landscape parking lot interiors. The use of shade trees in these landscape areas is encouraged. Any open parking area containing more than six thousand square feet (6,000 sq. ft.) of area or fifteen (15) or more parking spaces shall provide the following interior landscaping in addition to the required perimeter screening:

- A. An area equal to five percent (5%) of the total area devoted to parking space and parking lanes shall be landscaped and permeable.
- B. Whenever possible, large parking areas of thirty thousand square feet (30,000 sq. ft.) or larger shall be designed so as to break up their visual expanse and create the appearance of smaller parking lots. This distinction or separation can be achieved by interspersing yard space and buildings in strategic areas and by taking advantage of natural features such as slope, existing woodland or vegetation, drainage courses, and retention/ detention areas that contain water throughout the year.
- C. Landscaping in parking areas shall be dispersed throughout in peninsulas or islands. The minimum island or peninsula size shall be one hundred eighty-square feet (180 sq. ft.) with a two foot (2') minimum distance between all trees or shrubs and the edge of pavement where vehicles overhang and should have a minimum width of ten feet (10'). Islands shall typically be located every ten (10) to twelve (12) parking spaces and may be curbed.
- D. The required plant materials for the interior of parking areas shall be one (1) deciduous tree for every three thousand square feet (3,000 sq. ft.). Where site distance or maneuvering conflicts exist, trees shall have a clear trunk of at least five feet (5') above the ground, and the remaining required landscape areas shall be planted with shrubs or ground cover not to exceed two feet (2') in height.
- E. Areas located between any parking area and public right-of-way shall be landscaped with elements such as mounding, trees, ground cover, and shrubs.

Section 906 Plant Material Specifications

The following sections include specifications for plant materials. Alternatives to these materials that can be shown to meet both the intent and requirements of this Ordinance may be approved as part of a site plan:

- A. Shrubs: Shrubs shall be at least twenty-four inches (24 in.) average height and spread at the time of planting and, where required for screening, shall form a continuous, year-round, solid visual screen within five (5) years after planting.
- B. Ground Cover and Grass: Ground cover shall be planted a minimum of eight inches (8") on center and shall be planted in such a manner to present a finished appearance

and seventy-five percent (75%) coverage after one (1) complete growing season. If approved as part of a site plan, ground cover may also consist of rocks, pebbles, wood chips, and other material. Grass shall be planted in species normally grown as permanent lawns.

C. Prohibited Tree Species: Within any required landscaping, the following tree species may not be used:

- | | |
|-------------------|------------------|
| 1. Box Elder | 6. Hickory |
| 2. Poplar | 7. Mountain Ash |
| 3. Tree of Heaven | 8. Black Locust |
| 4. Willow | 9. Mulberry |
| 5. Catalpa | 10. Black Walnut |

In addition to the species listed above, trees which produce nuts, seeds, or fruit that can create a hazard to pedestrians or vehicles, shall not be planted in such a manner that the natural drilling of an average adult tree of the species planted will be any closer than three feet (3') of a pedestrian walkway or parking lot.

Section 907 Screening of Exterior Mechanical Equipment

Exterior components of plumbing, processing, heating, cooling, and ventilating systems (including, but not limited to piping, tanks, stacks, collectors, heating, cooling, and ventilating-equipment fans, blowers, ductwork, vents, louvers, meters, compressors, motors, incinerators, ovens, etc.) shall not be directly visible at ground level. Any landscaping or structural means employed to screen exterior components of plumbing, processing, heating, cooling, and ventilating systems from direct view shall appear as integrated parts of the buildings; shall be constructed of complementary and durable materials; and finished in a texture and color scheme complementary to the overall architectural design. Any exterior components of plumbing, processing, heating, cooling, and ventilating systems, and their screening devices which will be visible from upper floors of adjacent buildings shall be kept to a visible minimum; shall be installed in a neat and compact fashion; and shall be painted such a color as to allow their blending with their visual backgrounds.

Section 908 Maintenance and Replacement Requirements

The owner shall be responsible for maintaining all landscaping in good condition to present a healthy, neat, and orderly appearance. This should be accomplished by the following standards:

- A. All plant growth in landscaped areas shall be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a hazard.
- B. All planted areas shall be maintained in a weed-free condition, clear of undesirable undergrowth; and free from refuse and debris.
- C. Replacement plants shall conform to the standards that govern original installation. Dead or unhealthy plants shall be replaced within the next planting season.
- D. Representatives of the Village of Spencer shall have the authority to inspect landscaping and check it against the approved plan on file.

Article 10 Conditional Zoning Certificates

Section 1000 Statement of Purpose

Certain uses hereinbefore listed in this Ordinance are conditionally permitted and prior to the use of any land, building or structure or for the erection of any building or structure for said conditional uses a conditional zoning certificate must first be approved and authorized by the Village Council. Conditional uses possess unique characteristics as opposed to those permitted by right in the affected zoning district. These characteristics have inherent in them a degree of incompatibility with the uses permitted by right and, therefore, it is important that individual site consideration be given those proposed uses and that potentially affected properties be given an opportunity to determine the suitability of the use for the particular area. The purpose of this Article is to establish reasonable procedures and review requirements to insure the proper disposition of conditional zoning certificate applications.

Section 1001 Contents of Application for Conditional Zoning Certificate

An application for conditional zoning certificate shall be filed with the Village Clerk by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

- A. Name, address, email address and phone number of applicant and property owner, or the property owner's written approval if property ownership is other than the applicant;
- B. Legal description of property;
- C. A written narrative, which shall include:
 - 1. Description of existing use, including zoning district;
 - 2. Description of the proposed condition use, and applicable section,
 - 3. Responses to the criteria set out in Section 1008 A-M, Overall General Standards, and
 - 4. The relationship of the proposed use to the Village of Spence Comprehensive Plan.
- D. A site plan drawn to a reasonable scale of the proposed site for the conditional use showing the location and dimensions of all proposed uses, structures and buildings, parking and loading areas, abutting streets, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas utilities, signs, yards, and such other information as the Village Council may require to determine if the proposed conditional use meets the intent and requirements of this Ordinance.
- E. The names, addresses and telephone numbers (optional) of all adjoining property owners, and
- F. A fee as determined by Village Council under the provisions of Section 1430.
- G. The Zoning Inspector shall officially accept an application for review only when it is complete, as set forth above.

Section 1002 Review by Village Council

- A. The Village Council shall review the proposed development, as presented on the submitted plans and specifications in terms of the standards established in this Zoning Ordinance.
- B. The Village Council, (where it deems appropriate,) may refer an application to qualified consultants and to other review authorities including, but not limited to, the Village

- Planning Commission, Village Board of Zoning Appeals and the Medina County Planning Commission for study.
- C. In all cases, such review shall be completed and made public within sixty (60) days from the date the application is first accepted for filing with the Village Clerk, unless time is extended by a written agreement approved by both the applicant and the Village Council.

Section 1003 Public Hearing

After adequate review and study of any application, the Village Council shall hold a public hearing or hearings upon every application after at least one publication in a newspaper of general circulation in the community at least ten (10) days prior to the date of the hearing. Such notice shall indicate the place, time and subject of the hearing. Written notice of the hearing shall be mailed by the Village Clerk by first class mail, at least ten days before the date of the public hearing, to all owners of property within and contiguous to and directly across the street from such area proposed for a conditional use application to the addresses of such owners appearing on the county auditor's current tax list or the treasurer's mailing list. The published and mailed notices shall set forth the time and place of the public hearing and the nature of the proposed conditional use application. Upon the appointed date the Village Council shall then hold a public hearing prior to any determination of the conditional use application.

Section 1004 Issuance and Revocation of Conditional Zoning Certificates

Within thirty (30) days after the public hearing required in Section 1003, the Village Council may issue a conditional zoning certificate. The breach of any condition, safeguard or requirement shall automatically invalidate the certificate granted, and shall constitute a violation of this Zoning Ordinance.

Section 1005 Reapplication

No application for a conditional zoning certificate which has been denied wholly or in part by the Village Council shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof: of changed conditions which would be sufficient to justify reconsideration as determined by the Village Council. At the expiration of one year from the date of the original application, each reapplication shall be accompanied by the required fee.

Section 1006 Termination

The conditional zoning certificate shall be subject to revocation by the Village Council at the expiration of one year after date of issuance unless the structure or alteration thereof is started and work is continuing at a reasonable rate. For uses not requiring new construction or alterations, the certificate shall be subject to revocation by the Village Council after one year if the use is not yet in operation. Conditional zoning certificates shall be valid if the ownership of property is transferred.

The use of any dwelling, building, or structure and of any land or premises, authorized by a conditional zoning certificate, may be continued after initiation, although such use does not conform with amendments of this Ordinance thereafter adopted. Nevertheless, if any such conditional use is voluntarily discontinued for two years or more after proper initiation

pursuant to this Ordinance, any future use of the dwelling, building or structure and of any land or premises involved, shall be in conformity with the provisions of this Ordinance then in effect.

Section 1007 Basis of Determination

The Village Council shall establish beyond a reasonable doubt that the general standards and the specific standards pertinent to each conditional use indicated herein are satisfied by the completion and operation of the proposed development. The Village Council may also impose such additional conditions and safeguards deemed necessary for the general welfare for the protection of individual property rights and for the insuring that the intent and objectives of this Zoning Ordinance will be observed.

Section 1008 Overall General Standards Applicable to All Conditional Uses

In addition to the specific requirements for conditionally permitted uses, the Village Council shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

- A. Is in fact a conditional use as established under the provisions of this Ordinance and appears in the District Regulations found in Article 4 for the zoning district involved,
- B. Will be harmonious with and in accordance with the general objectives, or with any specific Goal, Objective or Recommendation and Implementation Strategy of the Comprehensive Plan of the Village and the zoning ordinance;
- C. Will be designed, constructed, operated, and maintained so as to be compatible, harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
- D. Will not be hazardous or disturbing to existing neighboring uses;
- E. Establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare.
- F. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- G. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- H. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- I. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
- J. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.
- K. Floodlights, loudspeakers or similar structures shall not be erected or used in any manner that will cause hazards or annoyance to the public generally or to the occupants of adjacent property.
- L. Landscaping and buffering shall be provided in accordance with Article 9.
- M. All trash receptacles shall be adequately screened.

Section 1009 Specific Criteria for Certain Conditional Uses

The following are specific conditions, standards and regulations for certain conditional uses and are in addition to the criteria and standards set forth in this Zoning Ordinance.

- A. Automotive and/or Gasoline Service stations, car wash or parking lots or garages for the sale of new or used motor vehicles shall comply with the following:
1. All activities, except those required to be performed at fuel pumps, shall be carried on inside a building.
 2. If work is to be performed on a vehicle, said vehicle shall be entirely within a building.
 3. Car parts, dismantled vehicles and tires shall be contained entirely within a building.
 4. No junk or inoperative or unlicensed motor vehicles shall be permitted to remain on the property for more than 48 hours.
 5. A gasoline station may be combined with any other permitted use provided the parking space requirements for both uses are met.
 6. For a car wash establishment, vehicular back up must be in compliance with Section 804 Parking requirements for drive-through-type establishments.
- B. Bed and Breakfast facilities including inns and residential bed and breakfasts shall comply with the following.
1. Guest rooms- A bed and breakfast inn shall have no more than four (4) guest rooms if it is located within a residential district or more than eight (8) guest rooms within a local commercial district. Each guest room shall contain no less than one hundred twenty (120) square feet of living space, not including closets, for two (2) guests, and thirty (30) square feet for each additional guest up to a total of four (4) guests per room.
 2. Parking - One (1) off street parking space shall be provided for each guest room and one (1) off street parking space for the dwelling unit. Such off street parking spaces shall not be provided in any front yard.
 3. Signage - One (1) on premise sign shall be permitted for each bed and breakfast inn not to exceed five (5) square feet in area and four (4) feet in height. The sign shall not be illuminated. Signs may not be placed in any minimum setback areas and applicable standards of Article 7 shall apply unless otherwise superseded by this section.
 4. Owner/Operator - The owner/operator of the bed and breakfast shall live full time on the inn's premises. Such owner/operator shall be the record owner of no less than fifty percent (50%) interest of the property in question.
 5. Design Review - All new construction and exterior alterations associated with the bed and breakfast inn, including nonstructural improvements, shall be reviewed by and require the approval of the Planning Commission. All such improvements shall be completed prior to issuance of a zoning permit.
 6. Each guest room shall contain a separate installed smoke detector alarm approved by the Fire Department. No premises shall be utilized for a bed and breakfast inn unless there are at least two (2) separate exits to the outdoors.
 7. Meals shall be served only to registered guests of the bed and breakfast inn and the bed and breakfast inn's owners and employees. The sale and consumption of alcoholic beverages to paying guests is strictly prohibited.

8. Consecutive Nights - Each paying guest may stay at a bed and breakfast inn for not more than fourteen (14) consecutive nights at any single visit or more than a total of twenty-eight (28) nights in any given calendar year.
 9. Kitchen Facilities - Only one (1) kitchen facility shall be permitted per structure for which a conditional use permit is granted to operate a bed and breakfast inn. No cooking facilities shall be permitted in individual guest quarters.
 10. Bathrooms - A minimum of one (1) full bathroom, including shower, toilet and sink, shall be required for every two (2) guest rooms to be available for the exclusive use of bed and breakfast paying guests. Bed and breakfast inns shall be served by public sanitary sewer and water service.
 11. Guest Register - A guest register listing the name, address and phone number of all paying guests shall be maintained by the owner/manager and shall be made available for inspection by Village Officials.
 12. Special Gatherings - Rental of the bed and breakfast inn for special gatherings such as wedding receptions and parties shall be prohibited in all residential zoning districts or properties adjacent to a residential zoning district.
 13. Public Nuisance - Bed and breakfast inns shall not be permitted and a conditional use permit shall be revoked or suspended whenever the operation endangers, offends or interferes with the safety or rights of others so as to constitute a nuisance.
- C. Cemeteries shall comply with the following:
1. Except for traditional office uses incidental to cemetery operations, no business or commercial uses of any kind shall be permitted on the cemetery site.
 2. Pavement width of driveways shall be at least twenty (20) feet.
 3. Sufficient parking spaces shall be provided with the cemetery so as not to hinder traffic flow.
 4. Gravesites shall not be located within ten (10) feet of the right-of-way lines of any public street nor within ten (10) feet of the existing property lines.
- D. Day Care Center, Adult or Child and Family Day Care Type A shall comply with the following:
1. The site plan shall indicate the dimensions of the day-care center, open space areas, parking and emergency entrances or exits and other safety precautions.
 2. Property shall be maintained in a neat, orderly and safe condition.
 3. All activities shall be directly related to the conditional use permit as submitted and approved.
 4. A drop-off and pick-up location shall not impede traffic on or off the site to ensure the safety.
 5. Seventy (70) square feet of outdoor open space and thirty (30) feet of indoor open space per occupant shall be provided.
 6. An outdoor play area for a day care center for children shall not be located closer than twenty (20) feet to any residentially-zoned property.
 7. All outdoor activity areas shall be enclosed by a fence or wall having a height of at least five feet but not exceeding six feet. An entry gate shall be securely fastened.
 8. There shall be a minimum of 600 feet between one Type A family day care home and another Type A family day care home.

9. The center shall be in full compliance with all applicable Federal, State and local laws and regulations.
- E. Drive-thru facilities accessory to a permitted use, including ATMs shall comply with the following:
1. Such facilities shall be located on an arterial street in an area least disruptive to pedestrians and vehicular traffic.
 2. Vehicular back up must be in compliance with Section 804 Parking requirements for drive-through establishments.
 3. Any proposed loudspeaker system shall be approved as part of the site plan review process.
- F. Energy Generating Devices, including Wind Energy Conversation Systems (WECS), and Solar Panels as accessory structures, (excluding solar panels attached or located on a roof or wall of building) subject to the following:
1. No wind or solar facility shall be located in the front or side yard.
 2. A WECS shall not exceed 100 feet in height.
 3. A WECS shall not be located closer than 1.1 feet for each foot of height measured from the natural grade to the tip of the rotor blade at its highest point, or the highest point of a vertical axis rotor, to a place of dwelling, property line, street right-of-way, utility wires and/or guy wires, or above electric lines.
 4. An accessory structure supporting a WECS or Solar Panel shall conform to all Village and County building regulations.
 5. Noise levels shall be controlled to prevent sound levels beyond the property line. Noise levels generated from any wind or solar facility shall not exceed 62 decibels (dBA) between the hours of 7:00 A.M. and 10:00 P.M., and shall not exceed 52 decibels (dBA) between the hours of 10:00 P.M. and 7:00A.M.
 6. Roof mounted WECS units may not exceed existing height regulations for dwelling units as specified in this Zoning Ordinance.
 7. Solar Panels located on the roof of any structure may not extend above the highest point of the existing roof. Exemption – Any solar panel attached or located on the roof or wall of a building that lies flat on that surface is exempt from obtaining a zoning certificate.
 8. Solar Panels detached from any structure shall not exceed fifteen (15) feet in height.
 9. Solar Panels detached from any structure, and/or any WECS shall not occupy more than thirty percent (30%) of the rear yard.
 10. Solar Panels (PV) located on the roof of any structure may not extend above the highest point of the existing roof. Exemption – Any solar panel attached or located on the roof or wall of a building that lies flat on that surface is exempt from obtaining a zoning certificate.
 11. Solar Panels (PV) detached from any structure shall not exceed fifteen (15) feet in height.
 12. Solar Panels (PV) detached from any structure, and/or any WECS shall not occupy more than thirty percent (30%) of the rear yard.
 13. Solar panels not mounted on a building or structure shall be considered an accessory use structure.

14. Signage – A limit of one (1) sign and one (1) logo, with a maximum size of 18” x 24” shall be affixed to any wind or solar facility, listing an emergency contact person and a 24-hour emergency phone number so that emergency vehicles can locate the responsible parties.
 15. Access to a wind or solar facility should be secured to provide maximum safety.
- G. Garden supply sales and landscaping business, including landscaping vehicle and equipment storage,
1. Outdoor sales of garden supplies:
 - a. Display areas shall not be located within parking setbacks or within required parking spaces;
 - b. Display areas shall not be located within areas intended for traffic circulation, within ingress or egress driveways or within marked fire lanes.
 2. Outdoor storage :
 - a. Shall be located in the side or rear yard, outside of the required parking or landscaped setback areas;
 - b. Shall not exceed the ground floor area of the principal building on the site, and
 - c. All materials, goods and equipment shall be enclosed within a solid wall or fence having a minimum height of six feet.
 - d. Materials, such as mulch or topsoil, may be stockpiled on the site, provided that such materials do not emit any odor that is discernible on adjacent properties.
 3. Dismantled or inoperable vehicles or equipment shall not be maintained or stored on the property.
- H. Group Homes for Handicapped Persons subject to the following:
1. Such homes shall be licensed according to ORC 5123.19 and evidence shall be presented indicating that the facility meets the certification, licensing or approval requirements of the appropriate state agency.
 2. All activities, programs and other events shall be directly related to the conditional use permit so granted.
 3. No such group home shall be located within a thousand (1,000) foot radius of another residential facility for the developmentally disabled licensed under ORC Section 5123.19.
 4. The architectural design and site layout of a group home licensed under ORC Section 5123.19 and the height of any walls, screens or fences connected with any said group home shall be compatible with adjoining land uses and the residential character of the neighborhood.
- I. Home occupations subject to the following requirements and conditions:
1. The proposed use shall be located and conducted in the principal building only.
 2. Not more than one (1) person shall be employed who is not a resident of the dwelling unit in which the proposed use is located.
 3. Not more than twenty-five (25) per cent of the total floor area in dwelling unit shall be devoted to proposed use, except that up to fifty (50) per cent of the total floor area may be devoted to the taking of boarders, tourists, or the leasing of rooms.
 4. Proposed use shall not constitute primary or incidental storage facilities for a business, industrial or agricultural activity conducted elsewhere.

5. No activity, materials, goods, or equipment indicative of the proposed use shall be visible from any public way.
 6. One (1) sign not to exceed four (4) square feet in area may be used, according to Section 705.
 7. The proposed use shall not generate noise, odor, fumes, smoke, vehicular or pedestrian traffic, nor nuisance of any kind which would tend to depreciate the residential character of the neighborhood in which the proposed use is located.
 8. Such proposed use shall be secondary in importance to the use of the dwelling for dwelling purposes.
- J. Institutions such as Schools (public or private and specialized instructional), Libraries, Museums, Community Centers, Churches and other places of religious worship, or other places of assembly, such as theaters, shall comply with the following:
1. Such uses should be located on an arterial or collector street or have direct access to an arterial or collector street without going through a residential neighborhood to lessen the impact on residential areas.
 2. All outdoor children's activities related to a business shall be enclosed by a fence or wall having a height of at least five feet but not exceeding six feet. An entry gate shall be securely fastened.
 3. All activities, programs and other events shall be directly related to the conditional use permit as presented and granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.
 4. All points of entrance or exit shall be located no closer than two hundred (200) feet from the intersection of two (2) major streets and no closer than one (100) feet from the intersection of a major street and a minor street, or two minor streets.
 5. The site plan shall indicate the ingress and egress locations, which will allow for the least impediments to adjacent land uses, parking and emergency entrances or exits or other safety precautions.
 6. All structures, except minor structures such as utility poles and meters, and activity areas shall be located at least fifty (50) feet from all property lines.
 7. The use should be located adjacent **to** non-residential uses, such as parks, utility stations, industrial or commercial uses.
 8. No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway, and no lighting shall shine directly on adjacent properties.
 9. In residential districts, retail sales are not permitted.
- K. Kennels shall comply with the following:
1. Outdoor areas devoted to kennel operations shall be located in the rear yard.
 2. Odor and noise shall be adequately controlled to ensure that animals do not create a nuisance.
 3. Waste shall be disposed of in an appropriate manner.
- L. Medical facilities for treatment and aid of humans, including general or specialties, such as dental, optical or orthodontics, and medical clinics, hospice, assisted living facilities,

nursing homes and convalescent homes, over 10,000 square feet, subject to the following conditions:

1. Such use shall be located on an arterial or collector street.
2. Outdoor storage of vehicles used in the operation of the medical facility may be permitted provided such storage/parking areas shall be located in the side or rear yard in off-street parking areas.
3. The facility shall provide safety features to ensure the safety of its residents and patients, as well as surrounding uses, which will include:
 - i. Local police and fire officials shall be provided with an evacuation plan, which shall be approved by the Fire Department, and posted in a conspicuous location within the facility.
 - ii. An overall floor plan of the facility shall be provided to the local police and fire departments, which shall keep the floor plan on file.
 - iii. Building emergency entrances or exists shall be indicated on the proposed site plan.
4. The facility shall be in full compliance with all applicable Federal, State and local laws and regulations to begin and continue operation.

M. Multi-family housing subject to the following conditions:

1. All structures, except minor structures such as utility poles and meters, and activity areas shall be located at least fifty (50) feet from all property lines.
2. All points of entrance or exit shall be located no closer than two hundred (200) feet from the intersection of two (2) major streets and no closer than one hundred (100) feet from the intersection of a major street and a minor street, or two minor streets.
3. Recreational facilities shall be provided as necessary in the opinion of the Village Council.
4. The use should be located adjacent to non-residential uses such as churches, parks, utility stations, industrial or commercial uses.
5. No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway, and no lighting shall shine directly on adjacent properties.

N. Outdoor recreational facilities, including parks, playgrounds and similar uses, subject to the following conditions:

1. Active recreation areas may be required to be enclosed by a fence having a minimum height of five (5) feet.
2. No drive-in theaters, amusement parks, race tracks of any kind, rifle ranges, skeet shooting ranges, pistol ranges, or other activities involving the use of firearms, including high-powered air rifles shall be permitted in any district.
3. Delivery trucks shall not be permitted to be used as refreshment stands, souvenir stands and/or concession stands.
4. All activities, programs and other events shall be adequately and properly supervised for the health and safety of the participants to ensure against disturbance or nuisance to surround properties, residents or to the community in general.
5. An adequate number of public restrooms for both men and women shall be provided and maintained.

6. Vehicular approaches shall be designed so as not to create an interference with traffic on surrounding private or public street or roads.
 7. All proposed uses, structures and buildings must be shown on the site plan submitted for review by the Village Council, and approvals shall be limited to those items shown. Construction must be in substantial compliance with the approved site plan. Any substantial amendment to the approved site plan must be resubmitted for review and approval.
 8. In a residential district, only incidental retail uses, such as a snack bar or concession stand, shall be permitted as an accessory use to a public or private recreation facility. Such facility shall be provided for the convenience of customers attending the public or private recreational facility. No sign advertising the retail use shall be permitted.
- O. Public Safety Facility, subject to the following conditions:
1. Facilities shall be limited to structures that are essential for the distribution of services to the local area.
 2. Such facilities shall be located on an arterial street in an area least disruptive to pedestrians and vehicular traffic.
 3. Outdoor storage of fleet vehicles used in the operation of the facility may be permitted provided such storage areas are located in the rear yard in compliance with the building setback requirements and are screened in accordance with Article 9 Landscape requirements.
 4. The areas devoted to the outdoor storage of fleet vehicles shall be enclosed with a fence six (6) feet in height. Such fence shall be screened.
 5. Any proposed loudspeaker or alarm system shall be approved as part of the site plan review process.
- P. Outdoor Retail Displays, subject to the following conditions:
1. Display areas shall comply with the parking setbacks set forth in .
 2. Such display areas shall not be located in areas intended for traffic circulation.
 3. Only ten (10%) percent of the existing parking spaces may be used for temporary display when the display area is located within the parking lot.
- Q. Senior citizen housing subject to the following conditions:
1. The development shall be located within convenient walking distance of shopping community facilities.
 2. Each dwelling unit shall be occupied by a household by persons who are 62 or older, or by at least one person who is 55 or older in at least 80 percent of the occupied units.
 3. The Housing project must adhere to a policy that demonstrates intent to house person who are 55 or older.
 4. One dwelling unit may be occupied by a custodian for the development without regard to age.
 5. The density of the development shall not exceed twelve dwelling units per acre.
 6. No dwelling unit in the development shall include more than two bedrooms.

7. The minimum ground floor area for one bedroom units shall be 650 square feet of living area and the minimum ground floor area for two bedroom units shall be 760 square feet of living area.

Article 11 Site Plan Review Procedures

Section 1101 Conditions for Review

Site plan review shall be required in any district where the construction, alteration or expansion of any multi-family, commercial or industrial, principal or institutional use or accessory building or a land use is proposed or when six (6) or more parking spaces are being required for new or existing uses.

Section 1102 Procedure for Site Plan Review

Formal submission and approval of a site plan is required before any zoning permit may be issued. Submission and approval of a site plan includes following the review procedures and submission requirements defined herein.

If site plan review involves any land that is annexed from a township pursuant to a CEDA agreement, the township trustees or their representative shall be invited to attend site plan review meetings for input with respect to zoning and/or site plan review issues.

An applicant seeking site plan approval shall follow the preliminary and final review process for site plan review as defined in this Article. For developments also requiring conditional use approval, the procedure established in Article 10 shall be followed. The Planning Commission may concurrently address the issue of site plan approval and consider a recommendation on a conditional use approval, and in such case, the approval of the site plan shall be contingent upon conditional use approval. If a variance is required, the applicant shall be required to seek a variance in accordance with Article 12 before submitting an application for formal site plan approval in accordance with this Article.

A. Optional Concept Review

At any time prior to the formal submission and review of a site plan, an applicant may engage the Planning Commission in an optional concept review process. In order to receive this review, the applicant shall submit a sketch site plan to the Planning Commission at least twenty-one (21) days before the next scheduled monthly meeting in order to be placed on the agenda for review. The purpose of such a sketch site plan is to provide an opportunity to conceptually discuss a proposed development and to provide general guidance to assist in the preparation of a formal site plan. There are no applied standards to the site sketch plan, however, the applicant is encouraged to provide enough detail in order to be able to accurately represent the concept. All comments and suggestions shall be considered informal by the applicant and shall not be a binding agreement with the Planning Commission for approval. This concept review is a service provided to benefit the applicant, and formal site plan approval is dependent upon the outcome of the Preliminary Plan Review and Final Site Plan Review described herein.

B. Preliminary Plan Review

1. The applicant shall be required to submit a plan for preliminary site plan review. In order for the application to be deemed complete, the application form, permit fees, and twelve (12) copies of the plan shall be submitted to the Responsible Authority at least twenty-one (21) days before the next regularly scheduled monthly meeting in order to be considered for placement on the agenda for review. If the applicant fails to provide a complete application as described herein, the Responsible Authority shall notify the applicant promptly of the missing items. An additional fee shall be required to defray the expenses associated with the municipal review of the plans, including the need to retain a registered professional engineer, architect, or landscape architect, or other professional consultant to advise the Village on any or all aspects of the site plan.

A site plan shall be prepared at a scale of one inch equals fifty feet (1" = 50'). Developments more than five (5) acres may be drawn at a scale of one inch equals one hundred feet (1" = 100'), on standard twenty-four inch by thirty-six inch (24" x 36") sheets, with narrative on eight and one-half inch by eleven inch (8½" x 11") sheets as necessary. All site plans shall be prepared by a registered professional engineer, architect, or landscape architect. Minimum information to be provided in the site plan drawing includes:

- a. The location of the proposed development in relation to existing surrounding land uses, including but not limited to, community facilities, thoroughfares, and other transportation modes, shopping centers, manufacturing establishments, residential development; and existing natural features such as vegetation, general soil conditions, wetlands, bodies of water and topography in the neighboring area.
- b. Applicable zoning district/proposed zoning district.
- c. Width and names of public rights-of-way that are adjacent to the site and/or will be used for access.
- d. The layout and acreage of the site and proposed location of all uses, along with parking areas, and planned access and traffic circulation on the site, and planned changes that will take place in any existing public right-of-way.
- e. The location of all existing and proposed buildings and structures on and adjacent to the site.
- f. The location of utilities and any easements, if available, and the location and size and capacity of the sewer and water lines that are proposed to serve the development.
- g. The scale, title, a north arrow, and date of submission.
- h. Name, address, phone number, email address and fax number of all applicants, developers, and their representatives.
- i. Adjoining land uses and zoning.
- j. A rendered building elevation drawing shall be provided showing exterior finishes and colors, where appropriate.

2. Responsible Authority Review

- a. The Responsible Authority, which in most cases will be the Village of Spencer Zoning Inspector, shall review the site plan review application for compliance to all applicable sections of this Ordinance within fifteen (15) days of receipt of the application, based on the information provided in the application. If the Responsible Authority finds that the plan will not comply with this Zoning Ordinance, the Responsible Authority shall notify the applicant of the discrepancies of the site plan. If the applicant disagrees with the Responsible Authority's decision or chooses to seek a variance, he or she can appeal to the Zoning Board of Appeals for such relief, as described in Article 12 as a separate process. Submission of the preliminary plan to the Planning Commission shall not be permitted unless the Responsible Authority determines that the plans are in compliance with this Ordinance or an appeal or variance has been granted from the Zoning Board of Appeals.
- b. In the case of a preliminary site plan review application within the Commercial Mixed Use District, a copy of the application and site plan shall be forwarded to the Medina County Department of Planning Services for review and comments.

3. Notification of Adjoining Property Owners

Within five (5) days following the determination that the application for the preliminary site plan is complete, notices of the meeting to be held by the Planning Commission on the proposed development may be sent, by first class mail, to all adjoining property owners within three hundred feet (300') of the proposed development.

4. Planning Commission Review

The Responsible Authority shall forward the preliminary application to the Planning Commission for review and discussion, after determining that the application is complete and the applicant complies with this Ordinance, based on the information required and provided at this stage of review. Within sixty (60) days of receipt of the preliminary application and plan from the Responsible Authority, the Planning Commission shall meet to consider the proposed site plan according to the following criteria:

- a. The adequacy of the information presented to determine the impacts of the proposed site.
- b. The impacts of the proposed development compared with the following standards:
 - i. Traffic: Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
 - ii. Parking: Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
 - iii. Services: Reasonable demands placed on municipal services and infrastructure.
 - iv. Pollution Control: Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface water and groundwater. This includes controlling soil erosion both during and after construction.

- v. Nuisances: Protection of abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare and storm water runoff.
- vi. Existing Vegetation: Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
- vii. Amenities: The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside planting, and the retention of other green areas.
- viii. Community Character: The building setbacks, area, and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape.

5. Final Action of the Preliminary Site Review shall consist of either:

- a. Approval to prepare the site plan for Final Plan Review, in accordance with all applicable regulations and developmental requirements imposed by this Zoning Ordinance.
- b. Approval to prepare the site plan for Final Plan Review, conditional to incorporation of all conditions as set forth by the Planning Commission, and all applicable regulations imposed by this Zoning Ordinance.

C. Final Site Plan Review Procedure

- 1. The applicant shall prepare the final site plan in accordance with any conditions set by the Planning Commission in the Preliminary Review and all other applicable sections of this Ordinance. All applicants are required to follow final site plan review procedures before receiving final approval of site plans, and approval for a zoning permit. All applicants shall be required to submit a completed application, a final site plan (12 sets), and an application fee to the responsible authority twenty-one (21) days before the next regularly scheduled meeting in order to be placed on the agenda for review. An additional fee shall be required to defray the expenses associated with the municipal review of the plans, including the need to retain a registered professional engineer, architect, or landscape architect, or other professional consultant to advise the Village on any or all aspects of the site plan.
- 2. Final Site Plan Content: Site plan shall include the following data, details, and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. A site plan shall be prepared at a scale of one inch equal fifty feet (1" = 50'). Developments more than five (5) acres may be drawn at a scale of one inch equals one hundred feet (1" = 100'), or as determined by the Village engineer, on standard twenty-four inch by thirty-six inch (24" x 36") sheets, with narrative on eight and one-half inch by eleven inch (8½" x 11"), sheets, as necessary. All site plans shall be prepared by a registered professional engineer, architect, or landscape architect. Items required for submission include:
 - a. Name of the project, boundaries, and location maps showing the site's location in the Village, date, north arrow, and scale of the plan.

- b. Name, address, phone number, email address and fax number of the owner of record, developer, engineer, architect, landscape architect, and seal of the engineer, architect, or landscape architect who prepared the site plan.
- c. The legal description of the site that will be developed.
- d. Existing or proposed deed restrictions or covenants associated with the development.
- e. Names and addresses of all owners of record of abutting parcels and those within three hundred feet (300') of the property lines.
- f. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, and abutting land uses.
- g. The location and use of all existing and proposed buildings and structures within the development, including building footprints, overhangs, site coverage, building-ground contact, and area. A brief description of the use of the site shall be included with an estimate of the number of employees.
- h. All dimensions of heights and floor area, and showing all exterior entrances.
- i. Illustrations of traffic movement, ingress and egress, and the location of all present and proposed public and private drives, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls, and fences.
- j. Illustrations of the proposed changes in any public right-of-way, and typical pavement sections and plans showing other improvements, including new streets and infrastructure to be constructed for the development which shall be dedicated to public use.
- k. The location, height, intensity, lighting pattern, and bulb type (e.g. florescent, sodium, incandescent) of all external lighting fixtures.
- l. The location, height, size, materials, and design of all proposed signage.
- m. The location of all present and proposed utility systems, including sewage or septic systems; water supply system; telephone, cable and electrical systems; and storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales, detention areas, and storm system design calculations.
- n. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- o. Existing and proposed topography upon and within seventy-five feet (75') of the site at a one foot (1') contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one hundred (100) year flood plain, the area will be shown, and base flood elevations given. If the area is not located within the one hundred (100) year flood plain, this fact shall be noted on the plan.
- p. A landscape plan showing all existing natural land features, trees, and forest cover, and water resources, and all proposed changes to these features, including size and type of plant material. Water resources will include ponds, lakes, streams, wetlands, floodplains, and drainage retention areas.
- q. A plan for Erosion and Sedimentation Control during and after construction shall be included with all other plans upon application for a zoning permit for residential subdivisions and all commercial and industrial development. The following principles shall be followed in developing and carrying out the plan:

- i. The smallest practical area of land should be exposed at any one time during development.
- ii. When land is exposed during development, the exposure should be kept to the shortest practical period of time.
- iii. Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development.
- iv. Sediment basins (debris basins, desilting basins, or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.
- v. Provisions shall be made to effectively accommodate the increased run-off.
- vi. The permanent final vegetation and structures shall be installed as soon as practical in the development.
- vii. The development plan shall be fitted to the topography.
- viii. Wherever feasible, natural vegetation should be retained and protected.
- ix. For new construction or alterations to any existing building, a table containing the following information must be included:
 - (1) Area of building to be used for a particular use such as retail operation, office, storage, etc.
 - (2) Maximum number of employees.
 - (3) Maximum seating capacity, where applicable.
 - (4) Number of parking spaces existing and required for the intended use.
 - (5) Three (3) complete sets of building drawings and plans as approved by the State of Ohio.
 - (6) One (1) set of scaled building elevation drawings shall be provided showing the exterior finishes and colors.

3. Review by the Responsible Authority

- a. The Responsible Authority, which in most cases will be the Village of Spencer Zoning Inspector, shall review the application for compliance to all applicable sections of this Ordinance, and all previous conditions imposed by the Planning Commission in the Preliminary Review, within fifteen (15) days of receipt of the application. Such review shall be based on the information provided by the applicant. If the Responsible Authority finds that the plan will not comply with this Zoning Ordinance or the applicant has not met all previous conditions as stated in the Preliminary Review, the Responsible Authority shall notify the applicant of the discrepancies of the site plan.
- b. Final review of the site plan by the Planning Commission shall not be permitted unless the applicant complies with this Ordinance and any prior conditions established as a result of the preliminary review.
- c. In the case of a site plan review application within the Commercial Mixed Use District, a copy of the application and site plan shall be forwarded to the Medina County Department of Planning Services for review and comments.

4. Notification of Adjoining Property Owners.

- a. Within five (5) days following the determination that the application is complete, notices of the meeting to be held by the Planning Commission on the proposed development may be sent, by first class mail, to all adjoining property owners within three hundred feet (300') of the proposed development.
5. Within sixty (60) days of receipt of an accurate and complete final plan from the Responsible Authority, the Planning Commission shall take a final action. The final action shall consist of either:
 - a. Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and the plan meets all standards set forth in this Zoning Ordinance and agreements during the preliminary review process.
 - b. Approval of the site plan subject to any additional conditions, modifications, and restrictions as required to ensure that the project meets the standards for review.
 - c. If the site plan is approved subject to conditions, the Responsible Authority shall not issue a permit until the site plan has been redrawn and resubmitted and checked for compliance with the imposed conditions.

Section 1103 Access Control Requirements

General standards for parking areas, circulation, and access shall be incorporated as part of the site plan. These standards are found in Article 8 of this Ordinance. As part of the site plan review process, access shall be reviewed relative to the distance from other drive approaches and from roadway intersections. The preferred method of providing access to parcels is to minimize or eliminate driveways by using service roads, rear access roads, or shared driveways. The Planning Commission may, as part of the site plan review process, require that driveways be moved, combined, re-aligned, or eliminated to reduce the potential for accidents.

A. Conditional Approval of Driveways

As part of the site plan review process, the Planning Commission may approve a site plan with a specific driveway location, with the condition that an agreement be first entered into between the property owner and the Village of Spencer requiring that if a service road is constructed in the future, or if the opportunity for a shared driveway should present itself with development of adjacent property, one (1) or more approved driveways shall be closed and measurements taken to utilize such service road or shared drive. Approval of driveways may also include restrictions on turning movements, locations, or other requirements to ensure safe and efficient traffic movement.

B. Construction and Use of Service Roads.

When a service road is required, such improvement shall be constructed by the developer of the involved property before any zoning occupancy or zoning use permit is granted. When a service road is provided, all access to an adjacent property shall use that service road and no direct access to the main thoroughfare shall be provided.

Section 1104 Traffic Impact Study

A traffic impact study shall be a requirement for site plan review if the expected trip generation of the use is one hundred (100) or more cars per hour as identified in the Institute of Traffic Engineers (ITE) Manual. A traffic impact study shall be prepared by a qualified professional engineer at the developer's expense. The traffic impact study shall investigate the feasibility and benefits of improvements such as signals, turn lanes, driveway movement limitations, and other relevant information to the site to protect the safety of the traveling public. The traffic impact study shall include the following elements:

- A. A description of the site and study area.
- B. Anticipated development of adjacent parcels.
- C. Trip generation and distribution, including a description of all assumptions used to generate findings of trip distribution.
- D. Modal split (if applicable).
- E. Traffic assignment resulting from the development.
- F. Projected future traffic volumes.
- G. An assessment of the impact that would result from driveway alternatives.
- H. Recommendations for site access and transportation improvements needed to maintain traffic flow within and past the site at an acceptable and safe level of service.
- I. An evaluation of the effects that the proposed development will have on the level of service and roadway capacity.

Section 1105 Enforcement of Site Plan Compliance

The Village of Spencer may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. It may suspend any zoning permit when work is not performed as required. Site plan approval issued under this section shall lapse within one (1) year if a substantial use thereof has not commenced, except for good cause.

Article 12 Board of Zoning Appeals

Section 1201 Authority

The Planning Commission is authorized to act as the Administrative Board and Board of Zoning Appeals as provided in Section 713.11 of the Ohio Revised Code, and shall have all the powers and duties prescribed by law and by this Ordinance.

Section 1202 Composition, Appointment and Organization

The Board of Zoning Appeals shall consist of five (5) members. Each member except for the Mayor and Council representative shall be appointed for a period of four (4) years and terms shall be so arranged that the terms of one member shall expire each year. The Mayor and Council representative shall serve for their respective terms of office. Each member shall serve until his successor is appointed. The Board of Zoning Appeals shall elect a chairman from its membership, shall appoint a clerk, and shall prescribe rules for the conduct of its affairs. Members of the Board shall be removed for nonperformance of duty, a misconduct in office or other cause, after a public hearing has been held regarding such charges. A copy of the charges shall be served upon the members so charged at least ten (10) days prior to the hearing either personally or by registered mail or by leaving same at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. In the event a vacancy occurs, such vacancy shall be filled by appointment for the balance of the unexpired term.

Section 1203 Quorum

The Board of Zoning Appeals shall require a quorum of three (3) members at all its meetings and the concurring vote of three (3) members shall be necessary to effect any order.

Section 1204 Meetings

The Board of Zoning Appeals shall meet at the call of its chairman or two (2) other members, and at such other regular times as it may by ordinance determine.

Section 1205 Witnesses

The Board of Zoning Appeals Chairman or acting Chairman may administer oaths and compel the attendance of witnesses in all matters coming within the purview of this Ordinance.

Section 1206 Powers and Duties of Board of Zoning Appeals

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Inspector in the enforcement of this Ordinance.
- B. To authorize upon appeal, in specific cases, variances from the specific requirements of this Ordinance as will not be contrary to public interest, where, owing to special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial justice done.

- C. To review and make recommendation when requested by Village Council on applications for conditional zoning certificates in regards to the use of land, buildings, or other structures as specifically provided for elsewhere in this Ordinance. ~

Section 1207 Requirements for Appeals and Variances

Appeals and variances shall conform to the procedures and requirements of Section 1207.1 - 1207.4, inclusive of this Ordinance. Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permitted under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance and punishable under Article 14 of this Ordinance.

Section 1207.1 Appeals

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any office or bureau of the legislative authority of the Village affected by any decision of the Zoning Inspector. Such appeal shall be taken within thirty (30) days after the decision by filing, with the Zoning Inspector and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

Section 1207.2 Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals after the notice of appeal is filed with him, that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the Zoning Inspector from whom the appeal is taken on due cause shown.

Section 1207.3 Variances

The Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Ordinance would result in an unnecessary hardship.

Section 1207.4 Application and Standards for Variances

A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing:

- A. Name, address, and phone number of applicants.
- B. Legal description of property.
- C. Description of nature of variance requested, including the Ordinance article and section number from relief is being requested, if appropriate.
- D. A narrative statement demonstrating that the requested variance conforms to the following standards:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - 2. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - 3. That special conditions and circumstances do not result from the actions of the applicant.
 - 4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- E. Names addresses and phone numbers of affected residents.

A variance shall not be granted unless the Board makes specific findings-of-fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by subsection D of this section have been met by the applicant.

Section 1208 PROCEDURE FOR APPEALS AND VARIANCES

Section 1208.1 Public Hearing by the Board of Zoning Appeals

The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant. Before holding the public hearing required, notice of such hearing shall be given in a newspaper of general circulation at least ten (10) days prior to the date of said hearing. Such notice shall set forth the time and place of the hearing, and the subject of the proposed appeal or variance.

Section 1208.2 Notice to Parties in Interest

Before holding the public hearing required in Section 1208.1, written notice of such hearing shall be mailed by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information as required of notices published in newspapers as specified in Section 1208.1.

Section 1208.3 Action by Board of Zoning Appeals

Within thirty (30) days after the public hearing required in Section 1208.1, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 1207, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building, or structure. Appeals from Board of Zoning Appeals may be made to the courts, as provided in Chapters 2505 and 2506 of the Ohio Revised Code.

Article 13 Zoning Amendment Procedures

Section 1301 Procedure for Amendment or District Changes

This Ordinance may be amended utilizing the procedures specified in Sections 1302-1311 inclusive, of this Ordinance.

Section 1302 General

Whenever the public necessity, convenience, general welfare, or good zoning practices require, Village Council may, by ordinance, after receipt of recommendation thereon from the Planning Commission, and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

Section 1303 Initiation of Zoning Amendments

Amendments to this Ordinance may be initiated in one of the following ways:

- A. By adoption of a motion by the Planning Commission
- B. By adoption of a resolution by Village Council.
- C. By the filing of an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

Section 1304 Contents of Application

Applications for amendments to the Official Zoning Map adopted as part of this Ordinance by Article 1, Section 130 shall contain at least the following information:

- A. Name, address, and phone number of applicant.
- B. Proposed amending ordinance, approved as to form by the Village legal advisor.
- C. Present use.
- D. Present zoning district.
- E. Proposed use
- F. Proposed zoning district.
- G. A vicinity map at a scale approved by the Zoning Inspector showing property lines, thoroughfares, existing and proposed zoning and such other items as the Zoning Inspector may require.
- H. A list of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case, except that addresses need not be included where more than ten (10) parcels are to be rezoned.
- I. A fee as established by Village Council, according to Section 1430.

Applications for amendments proposing to amend, supplement, change, or repeal portions of the Zoning Ordinance other than the Official Zoning Map shall include items A, B, and I listed above.

Section 1305 Transmittal to Planning Commission

Immediately after the adoption of a resolution by the Village Council or the filing of an application by at least one (1) owner or lessee of property, said resolution or application shall be transmitted to the Commission.

Section 1306 Recommendation by Planning Commission

Not less than thirty (30) days from the receipt of the proposed amendment, the Planning Commission shall transmit its recommendation to the Village Council.

Section 1307 Public Hearing by Village Council

Upon receipt of the recommendation from the Planning Commission, Village Council shall schedule a public hearing. Said hearing shall be not more than forty (40) days from the receipt of the recommendation of the Planning Commission.

Section 1308 Notice of Public Hearing in Newspaper

Notice of the public hearing required by Section 1307 shall be given by Village Council by at least one (1) publication in a newspaper of general circulation. Said notice shall be published once at least thirty (30) days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and the proposed amendment.

Section 1309 Notice to Property Owners by Village Council

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by first class mail, at least twenty (20) days before the day of the public hearing to all owners of property within, contiguous to, and directly across the street from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by Village Council. The failure to deliver the notification, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section 1308.

Section 1310 Action by Village Council

Within thirty (30) days after the public hearing required by Section 1307, the Village Council shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the Village Council denies or modifies the recommendation of the Planning Commission, it must do so by not less than three-fourths of the full membership of Village Council.

Section 1311 Effective Date and Referendum

Such amendment adopted by Village Council shall become effective thirty (30) days after the date of such adoption unless within thirty (30) days after the passage of the ordinance there is presented to the Village Clerk a petition, signed by a number of qualified voters residing in the Village equal to not less than ten (10) percent of the total vote cast in such area at the last preceding general election at which a Governor was elected, requesting the Village Council to submit the zoning amendment to the electors of the Village for approval or rejection at the next general election. No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the amendment has been approved by the voters, it shall take immediate effect.

Article 14 Administration, Enforcement and Penalty

Section 1400 Administration

The provisions of this Ordinance shall be administered by the Village's Administrative Official who is henceforth referred to in this Ordinance as the Zoning Inspector.

Section 1410 Zoning Permits Required

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefore, issued by the Zoning Inspector.

Zoning permits shall be issued only in conformity with the provisions of this Ordinance unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding an appeal or variance request or from Village Council approving a conditional use permit as provided by this Ordinance.

Section 1411 Contents of Application for Zoning Permit

The application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one year or substantially completed within two and one-half (2½) years. At a minimum, the application shall contain the following information:

- A. Name, address, and phone number of applicant;
- B. Legal description of property;
- C. Existing use;
- D. Proposed use;
- E. Zoning district;
- F. Plans in duplicate drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building (s) or alterations;
- G. Building heights;
- H. Number of off-street parking spaces or loading berths.
- I. Number of dwelling units, and
- J. Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

Section 1412 Approval of Zoning Permit

- A. Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this Ordinance. All zoning permits shall, however, be conditional upon the commencement of work within one year.
- B. One copy of the plans shall be returned to the applicant by the Zoning Inspector, after the Zoning Inspector shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked, shall be retained by the Zoning Inspector.

- C. A copy of the zoning permit for any new construction must be transmitted by the Zoning Inspector to the Village of Spencer Water Department.

Section 1413 Expiration of Zoning Permit

- A. If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Zoning Inspector; and written notice thereof shall be given to the persons affected.
- B. If the work described in any zoning permit has not been more than one-half completed per phase within two and one half (2 1/2) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.

Section 1414 Certificate of Occupancy

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefore by the Zoning Inspector stating that the proposed use of the building or land conforms to the requirements of this Ordinance.

Section 1415 Temporary Certificate of Occupancy

A temporary certificate of occupancy may be issued by the Zoning Inspector for a period not exceeding thirty (30) days during alterations or partial occupancy of a building pending its completion.

Section 1416 Record of Zoning Permits and Certificates of Occupancy

The Zoning Inspector shall maintain a record of all zoning permits and certificates of occupancy and copies shall be furnished upon request to any person.

Section 1417 Failure to Obtain a Zoning Permit or Certificate of Occupancy

Failure to obtain a zoning permit or certificate of occupancy shall be a violation of this Ordinance and punishable under Section 1420 of this Ordinance.

Section 1418 Construction and Use to Be as Provided in Applications, Plans, Permits, and Certificates

Zoning permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this Ordinance, and punishable as provided in Section 1420 of this Ordinance.

Section 1419 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

Section 1420 Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in various sections of this Ordinance shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not less than fifty (50) dollars but no more than one-hundred (100) dollars and in addition shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 1430 Schedule of Fees, Charges, and Expenses

The Village Council shall by ordinance establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, amendments, appeals, variances, conditional zoning certificates, plan approvals, and other matters pertaining to the administration and enforcement of this Ordinance requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be altered or amended only by the Village Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

