

ARTICLE 10

USES WITH ADDITIONAL STANDARDS AND SPECIAL USES

10.1 Uses with Additional Development Standards

10.1-1 Purpose. Certain uses provide services and benefits for residents of and visitors to the Town of Spencer. The convenient location of these uses is necessary to their success and the function of the community. Due to the potential impacts of these uses, certain additional standards are necessary to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require additional standards and establishes the standards they must meet.

10.1-2 Standards Established. The following Uses with Additional Standards and the standards they must meet are hereby established.

10.1-3 Accessory Dwelling Units.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) One (1) *Accessory Dwelling Unit* shall be permitted only on a lot containing a single dwelling unit (the principal dwelling) and conforming accessory structures in any single-family zoning district.
- (2.) The *Accessory Dwelling Unit* shall not be considered a separate unit for the purpose of determining minimum lot size or maximum density.
- (3.) Home occupations may be located within the *Accessory Dwelling Unit*.
- (4.) The maximum gross floor area for the *Accessory Dwelling Unit* shall be 900 SF or 40% of the gross floor area of the principal structure, whichever is less. Variances shall not allow the gross floor area of the *Accessory Dwelling Unit* to exceed 1200 SF nor shall the size of the *Accessory Dwelling Unit* exceed 50 percent of the gross floor area of the principal dwelling unit.
- (5.) The *Accessory Dwelling Unit* may be located within same structure as the principal dwelling unit or it may be a separate structure. If within the same structure as the principal dwelling unit, the *Accessory Dwelling Unit* may have a separate entrance. If the *Accessory Dwelling Unit* is located in a separate structure, the following standards shall apply:
 - (a.) The accessory structure housing the *Accessory Dwelling Unit* must be located behind the principal dwelling. On corner lots, the accessory structure housing the *Accessory Dwelling Unit* may be located on the corner street side of and behind the principal dwelling but must be oriented to the front street (same

- orientation as principal dwelling).
- (b.) Vehicular access to the *Accessory Dwelling Unit* shall be via the same drive that provides access to the principal structure unless the *Accessory Dwelling Unit* is located on a corner or through lot. If located on a corner or through lot, a secondary drive may provide access to the *Accessory Dwelling Unit*, but the secondary drive shall not be on the same street as the drive providing access to the principal dwelling.
- (6.) One (1) parking space may be provided for the *Accessory Dwelling Unit*. The parking space shall be located in the same area as the parking provided for the principal dwelling unit unless the lot is a corner or through lot and a separate drive provides access to the *Accessory Dwelling Unit*.
- (7.) The design and construction of the accessory structure housing the *Accessory Dwelling Unit* shall be compatible with the design and construction of the principal dwelling unit. To ensure compatibility, the following standards shall be met:
- (a.) The design of the accessory structure housing the *Accessory Dwelling Unit* shall be of the same architectural style as that of the principal dwelling unit.
 - (b.) The roof style and pitch of the accessory structure housing the *Accessory Dwelling Unit* shall be the same as that of the principal dwelling unit.
 - (c.) The exterior building materials used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as those used for the principal dwelling unit. When the principal dwelling unit is predominantly brick or stone, the use of smooth wood or fibrous cement siding for the accessory structure housing the *Accessory Dwelling Unit* is appropriate to reinforce the ancillary and secondary nature of the *Accessory Dwelling Unit*.
 - (d.) Windows and doors used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same style and design as those used for the principal dwelling unit. Window and door placement (fenestration) on the accessory structure housing the *Accessory Dwelling Unit* shall mimic that of the principal dwelling unit.
 - (e.) Exterior paint colors for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as (or complementary to) those for the principal dwelling unit.
- (8.) The use of manufactured dwellings, mobile homes, travel trailers, campers, or similar units as an *Accessory Dwelling Unit* is prohibited.
- (9.) The *Accessory Dwelling Unit* shall not be deeded and/or conveyed to separate and/or distinct ownership separately from the principal dwelling unit.

10.1-4 Automobile/Boat/Equipment Repair Service.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) Vehicles awaiting repair shall not be parked in public right-of-way.
- (2.) No outdoor automobile/boat work areas are to be located in front yard setback area.
- (3.) All outdoor automobile/boat work areas and/or vehicle storage areas shall be screened from adjacent uses with a six (6) foot tall opaque fence and a type D buffer (see Article 11); plantings shall be on the exterior side of the fence.

10.1-5 Automobile Towing and Storage Service.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) No more than 30 automobiles shall be stored at an automobile towing and storage service at a time.
- (2.) The automotive storage area must be screened with a six-foot-tall opaque fence and a type C buffer (see Article 11); plantings shall be on the exterior side of the fence.
- (3.) No outdoor disassembly or salvaging is permitted.

10.1-6 Bank, Savings and Loan, Credit Union.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) Drive-through facilities shall be located at the rear of the building
- (2.) No more than 2 drive-through lanes shall be permitted
- (3.) Drive-through facilities shall be screened from adjacent uses with a type D buffer (see Article 11).
- (4.) ATM may be located at side or front of building only if a walk-up facility.

10.1-7 Batting Cages, Outdoor.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Fencing, netting, or other control measures shall be provided around the perimeter of the batting area to prevent balls from leaving the area.
- (2.) Hours of operation 7:00 AM – 10:00 PM.

10.1-8 Bed-and-Breakfast Inn (Tourist Home).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards

- (1.) *Bed-and-Breakfast Inn* establishments (*Tourist Homes*) shall be located a minimum of 500 feet from other *Bed-and-Breakfast Inn* establishments (*Tourist Homes*). In calculating the 500-foot distance between *Bed-and-Breakfast Inn* establishments (*Tourist Homes*), measurements shall be taken from the closest property line of the existing *Bed-and-Breakfast Inn* establishment (*Tourist Home*) lot to the closest property line of the lot of the proposed *Bed-and-Breakfast Inn* establishment (*Tourist Home*). Existing, legally established *Bed-and-Breakfast Inn* establishments (*Tourist Homes*) that do not meet this separation requirement of 500 feet are permitted to expand within the subject property to the maximum limits allowed under this chapter, as long as all applicable development standards are met.
- (2.) The owner shall reside on the property a majority of the calendar year.
- (3.) The minimum lot area for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be 20,000 square feet.
- (4.) The maximum number of guest rooms provided by the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be fourteen (14).
- (5.) Accessory structures shall not be utilized for guest accommodation purposes as part of a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).
- (6.) Passive recreation-related outdoor activities such as tea-time are permitted outside the principal structure or any accessory structure(s), but all other activities and functions designed to serve and entertain guests shall take place only within the principal structure on properties of one acre or less.
- (7.) The length of stay of any guest shall not exceed thirty (30) successive calendar days, with a minimum interval between stays of ninety (90) days.
- (8.) No home of less than 3,000 heated square feet shall be used for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).
- (9.) Off-street parking shall be provided as required by Article 12 of this Ordinance. Parking shall be located on the same lot on which the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) is located, at the rear of the lot and screened with a

type C buffer (see Article 11) from adjacent properties and from the street except where separated from adjacent properties by a minimum of seventy-five (75) feet.

- (10.) Signage shall be limited to a single *Pole Sign*, subject to the regulations of Article 17. The sign shall be located in the front yard and, if lit, shall be indirectly lighted.
- (11.) Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.
- (12.) Activities and functions at the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be provided for overnight guests only and shall be limited to breakfast and an afternoon and/or evening refreshment. No commercial activities other than providing lodging for registered guests shall be permitted.
- (13.) The construction and operation of the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall comply with N.C. State Building Code requirements.

10.1-9 Car Wash.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Building(s) shall be at least 75 feet from any interior side or rear property line which adjoins property either zoned for or abutting a residential use. A minimum six-foot-high opaque fence and a type A buffer shall be provided adjacent to all property zoned for residential uses, with the plantings on the exterior side of the fence.
- (2.) All washing operations shall be contained in a building.
- (3.) Specific areas shall be provided for the manual drying, waxing, polishing and vacuuming of vehicles where these services are offered on the site. These areas shall not conflict with on-site circulation patterns.
- (4.) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.
- (5.) Hours of operation shall be between 8:00 a.m. and 8:00 p.m. when directly adjoining developed residentially zoned property.
- (6.) Adequate provision shall be made for the safe and efficient disposal and/or recycling of waste products and runoff.

10.1-10 Cemetery or Mausoleum.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) A minimum of three (3) contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a religious institution.
- (2.) Principal access must be from a collector street or higher capacity street.
- (3.) Tombstones, crypts, monuments, burial plots and mausoleums must be located at least 25 feet from any street right-of-way or 16 feet from abutting property.
- (4.) Buildings for maintenance, management, rent and/or sale of cemetery plots must conform to a building type permitted in the zoning district.

10.1-11 Religious Institutions (Church, Synagogue, Mosque, or Place of Worship).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Churches, synagogues, and other places of worship shall meet the standards for civic building and lot types.
- (2.) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.
- (3.) *Accessory Dwelling Units* for persons associated with or employed by the church, synagogue, mosque, or place of worship may be provided at a ratio of 1 unit for each 1 acre of site; these limits do not apply to the placement of convents, rectories, parsonages or similar uses on the site.
- (4.) Accessory uses such as religious institution offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, cemeteries, mausoleum, and day care centers on the same site or sites contiguous to the principal use shall be permitted wherever religious institutions are permitted and shall meet the civic building and lot type, or another building and lot type permitted in the zoning district. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such. Tombstones, crypts, monuments, burial plots and mausoleums in accessory cemeteries shall be located at least 25 feet from any street right-of-way or 16 feet from abutting property.
- (5.) Religious institution accessory uses which are not permitted as principal uses in a zoning district shall adhere to the following restrictions:
 - (a.) No merchandise or merchandise display shall be visible from outside the building; and

(b.) Signage shall be limited to a single *Pole Sign*, subject to the regulations of Article 17. The sign shall not be located in the front yard and, if lit, shall be indirectly lighted.

(6.) Except as noted in subsection 10.1-11(B)4., above, accessory uses not permitted as principal uses (including television stations, radio stations, and/or sports complexes) are prohibited. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.

(7.) Application for a zoning permit shall include a comprehensive site plan that addresses the required standards for the main site and all abutting holdings unless deemed un-necessary by the *Planning, Zoning & Subdivision Administrator*.

10.1-12 Club or Lodge.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards

(1.) Building(s) must conform to a building type permitted in the zoning district.

(2.) Clubs and/or lodges selling alcoholic beverages shall be a minimum of 200 feet from Religious Institutions.

(3.) Activities shall occur between the hours of 8:00 AM and 1:00 AM.

10.1-13 Country Club with or without Golf Course

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

(1.) Building(s) must conform to a building type permitted in the zoning district.

(2.) Parking shall be screened from residential uses and/or districts with a type C buffer (see Article 11).

(3.) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.

(4.) No outdoor activity shall continue past the hour of 10:00 PM.

10.1-14 Day Care Center for Children or Adults (6 or more).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) A *Day Care Center* must meet a permitted building and lot type for the district in which it is to be located.
- (2.) *Day Care Centers* for children must provide play space in accordance with the regulations of North Carolina Department of Human Resources. The outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.
- (3.) There is no limit on the hours of operation of a *Day Care Center*, but it shall not serve any client on a continuous 24-hour basis.

10.1-15 Day Care Center, Home Occupation for less than 6 persons.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) The *Day Care Center, Home Occupation* operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to five (5) persons not related to the operator.
- (2.) *Day Care Center, Home Occupations* for children shall provide play space in accordance with the regulations of the North Carolina Department of Human Resources.
- (3.) Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any established building setback from a street.
- (4.) No chain link fences shall be permitted in the front yard. Chain link and similar fencing materials located in the side and rear yards shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation, or be obscured by a comparable screening treatment.
- (5.) A *Day Care Center, Home Occupation* must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- (6.) There are no specific limitations on the hours of operation of a *Day Care Center, Home Occupation*, but no outdoor play shall be permitted twenty minutes after sun-set.

10.1-16 Dormitories.

(A.) Zoning District where additional standards below apply: "CIV"

(B.) Standards:

- (1.) Must be located on the campus of secondary or post-secondary school.
- (2.) The dormitories must be administered and/or managed by the secondary or post-secondary school on whose campus they are located.
- (3.) Buildings shall comply with the building type standards permitted in the Civic District.

10.1-17 Drive-through Window as Accessory Use.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Drive-through service window, stacking lane(s), and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street.
- (2.) Drive-through service window, stacking lane(s), and circulation are treated as components of on-site parking for the purposes of buffering.
- (3.) The length of on-site stacking lane(s), taken together, shall be a maximum of 200 feet if window access is provided directly from a major or minor arterial; a maximum of 100 feet if window access is provided directly from a street of lesser capacity.
- (4.) The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided for passage around and escape from the outermost drive-through service lane.
- (5.) Buffering is not required for walk-up service accessories such as depositories and ATM's.
- (6.) One drive-through service window and/or automated service device may be permitted.
- (7.) Drive-through service windows and/or automated devices shall be mitigated by the provision of four (4) electric vehicle charging devices per window and/or device to mitigate the air quality impact of a motor vehicle at idle.

10.1-18 Golf Course (see Country Club with Golf Course, Section 10.1-13).

10.1-19 Golf Driving Range.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Fencing, netting, or other control measures shall be provided around the perimeter of the driving range to prevent balls from leaving the area unless on site buffering is provided to prevent balls from entering any adjacent and/or occupied and/or improved property.
- (2.) The hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

10.1-20 Raceway (Go-Cart, Motorcycle, &/or Automobile).

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards.

- (1.) A minimum separation of 30 feet, fully vegetated, shall be provided between any use area and any abutting property line. The vegetation shall form a permanent semi-opaque screen between the use area and adjacent property.
- (2.) Any use area shall be located a minimum of 200 feet from any residential or mixed-use district.
- (3.) The site shall be screened from view at street(s) within 200 feet of the use area by a masonry wall or a solid wood fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence.
- (4.) The hours of operation will be no earlier than 8:00 a.m. and no later than 8:00 p.m.

10.1-21 Home Occupation.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) No display of goods, products, or services, or other advertising shall be visible from outside the dwelling, except that home occupations shall be allowed one pole sign in accordance with the provisions of Article 17, and such sign shall not be illuminated.
- (2.) Home occupations shall be principally conducted by residents of the dwelling. However, a maximum of one full-time equivalent non-resident of the dwelling may be employed as part of the home occupation.
- (3.) On premise retail sales shall not be a component of the home occupation.

- (4.) A maximum of 25 percent of the gross floor area of the dwelling unit may be used for the home occupation. If the home occupation is housed in an accessory structure, the square footage of the accessory structure shall not exceed 25 percent of the square footage of the principal structure (home).
- (5.) Only one vehicle principally used in connection with the home occupation shall be parked or stored on premise. Such a vehicle shall not display any signage designed to be visible beyond the property boundaries. Such a vehicle shall not be parked in a conspicuous place and shall be stored in a conforming on-site parking space meeting the provisions of Article 12.
- (6.) No equipment or process shall be used in connection with the home occupation that creates noise, vibrations, glare, fumes, odors, or electrical interference off premises.
- (7.) In addition to required parking as stipulated in Article 12, one additional off-street parking space shall be provided for use in conjunction with the home occupation.
- (8.) Instruction in music, dancing, art, or similar subjects shall be limited to no more than five (5) students at one time.
- (9.) The home occupation shall not materially increase the traffic that is found in its vicinity when the use is not in operation. Pursuant to this, a maximum of six individuals per day may visit the home occupation with the exception of the instruction occupations addressed in 10.1-21(B)(8) above.

10.1-22 Junked Motor Vehicle Storage as Accessory Use.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Any vehicle meeting the definition of "motor vehicle, junked" shall be stored or placed in the side or rear yard of the property in such a manner so as to be totally screened from view from any street and/or from any adjacent residential, mixed use, or civic zoned property. Total screening shall be provided by placement of the vehicle behind a building and/or by plant materials, fences, berms, or a combination thereof with a minimum height of six (6) feet.
- (2.) Open storage of more than one such vehicle shall require classification as a junkyard, salvage yard, auto parts use and shall meet the conditions for such use as set forth elsewhere in this Article.
- (3.) More than one such vehicle may be stored within a completely enclosed building.

10.1-23 Kennels or Pet Grooming with Outdoor Pens or Runs.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 400 feet from abutting property located in a residential or mixed-use district.
- (2.) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed-use district with a type B buffer (see Article 11).

10.1-24 Multi-Family Development.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) The multi-family development shall not exceed a total of seventy-two (72) dwelling units without separation of parcels by a public street or park.
- (2.) The maximum permitted density for the multi-family development shall be fourteen and one-half (14.5) units per acre or as limited by Permitted Residential Density standards listed in Article 8.
- (3.) The permitted building and lot types for the multi-family development in a single-family area shall be the detached house and the attached house building and lot types.
- (4.) All parking for the multi-family development shall be located behind the building. The parking area shall be screened from adjacent properties and from the street with a minimum of a type C buffer (see Article 11).
- (5.) The buildings in the multi-family development shall be architecturally compatible with single family structures on the street on which the multi-family building is proposed. Elements that shall be incorporated into the design of the multi-family building to ensure architectural compatibility are:
 - (a.) The multi-family building shall be constructed of building materials similar to those used on single family structures on the street.
 - (b.) The roof pitch of the multi-family building shall be the same as that of the single-family structures on the street.
 - (c.) The fenestration of the multi-family building by location and size of windows and doors shall be similar to that of the single-family homes on the street.
 - (d.) Color renderings of the proposed building must be submitted with the

application to ensure architectural compatibility.

- (6.) No multi-family building shall be located closer than 36 feet to an existing multi-family building or development. The distance shall be measured along centerline of streets from the edge of the property proposed for development to the closest edge of the property on which the existing multi-family building or development is located.
- (7.) Notification of public meetings at which multi-family developments will be considered shall be provided to owners of all properties located within 250 feet of the property for which the development is proposed.

10.1-25 Nursing Home, Assisted Living.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) The facility shall provide centrally located shared food preparation, food service, and dining areas.
- (2.) Common recreation, social, and service facilities shall be provided at a minimum rate of thirty (30) square feet per dwelling unit or per rooming unit.
- (3.) All facilities shall be solely for the use of residents and their guests.
- (4.) Facilities for administrative services and limited medical services for the exclusive use of the resident shall be located on the site.

10.1-26 Parks and Recreation Facilities, Public.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

- (1.) Overflow parking (in addition to required parking) must be designed on the site plan and be kept available to handle all traffic from special events such as softball tournaments and outdoor concerts.
- (2.) All parks greater than ten (10) acres shall have primary access to a collector or higher capacity street.
- (3.) Lighting, with the exception of lighting for ball fields and tennis courts, shall be full cut-off fixtures.

10.1-27 Special Events and Temporary Structures.

(A.) Zoning Districts where additional standards below apply: See Article 15

(B.) Standards: See Article 15

10.1-28 School, Elementary or Secondary.

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

(1.) Minimum lot size:

(a.) Kindergarten (only): One acre.

(b.) K-12: Two acres.

(2.) Minimum setback standards:

(a.) Front: Twice that for permitted uses in the respective zoning district.

(b.) Side: 25 feet.

(c.) Rear: 25 feet.

(3.) Building type shall be civic building.

(4.) Parking and active recreation areas shall not be located within the required building setbacks.

(5.) Primary access shall be provided from arterial streets. Local residential streets shall not be used for primary access.

(6.) Site lighting shall be full cut-off fixtures.

10.1-29 Swim and Tennis Club.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Standards:

(1.) The minimum area shall be two (2) acres. The minimum area shall be one (1) acre if located as part of a common area within a development.

(2.) There shall a minimum fifty (50) foot separation (distance) between clubhouse, swimming pool, lighted tennis court, or athletic field and any adjacent residentially-zoned property.

(3.) Outdoor swimming pools shall be protected by a non-climbable type fence, or equal enclosure, a minimum four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

(4.) Site lighting shall be full cut-off fixtures. If proof is provided that such lighting is inadequate for the tennis courts, the *Planning, Zoning & Subdivision Administrator* may approve other lighting for the tennis courts only.

10.1-30 Temporary Construction Storage and/or Office.

(A.) Zoning Districts where additional standards below apply: See Article 15

(B.) Standards: See Article 15

10.1-31 Veterinary Service with Outdoor Kennels.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance

(B.) Standards:

(1.) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 400 feet from abutting property located in a residential or mixed-use district.

(2.) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed-use district with a type B buffer (see Article 11).

10.1-32 Micro Wireless Facilities.

(A.) Zoning Districts where additional standards below apply: All zoning districts

(B.) Standards

(1.) Micro Wireless Facilities are permitted on buildings and other existing structures (other than off-premise signs) which do not require an increase in height to accommodate the facility. Electric distribution poles may be extended in height in residential zoning districts to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning & Subdivision Administrator*, or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

(2.) All antennas associated with Micro Wireless Facilities mounted on a building or other existing structure (other than a utility pole) shall be flush-mounted against the side of the building or structure and camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted.

(3.) Antennas associated with a Micro wireless (telecommunication) facility mounted on a utility pole must be mounted atop the pole or flush mounted against the sides of the pole, and shall be colored to match or complement the color of the utility pole and shall be mounted in as unobtrusive a manner as possible.

- (4.) Antennas associated with a Micro wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (5.) Equipment enclosures associated with Micro Wireless Facilities mounted on a building or other existing structure (other than a utility pole) shall be mounted inside the building or structure, attached to an exterior surface, or placed underground or on a concrete pad on the ground outside the building or structure. If mounted on an exterior surface, the enclosures shall be colored or camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted. If placed on a concrete pad on the ground, the enclosures shall be screened so as to make them unobtrusive.
- (6.) Equipment enclosures associated with a Micro wireless (telecommunication) facility mounted on a utility pole, must be mounted on the utility pole; provided, however, if combiners are used to allow collocation by sharing of an antenna or antenna array and pole-mounting of equipment enclosures cannot be accommodated on the pole, the combiner and additional equipment enclosures may be placed underground or on a concrete pad on the ground. If placed on a concrete pad on the ground, such additional equipment enclosures shall be screened so as to make them unobtrusive.
- (7.) All cabling and wiring connecting antennas, equipment enclosures, and other components of a Micro wireless (telecommunication) facility shall be colored or concealed in a manner as to render them unobtrusive.
- (8.) Micro Wireless Facilities located in a local historic district or on a historic landmark shall require a certificate of appropriateness from the historic resources commission.
- (9.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
- (10.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless (telecommunication) facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (11.) As part of its application each applicant for a Micro wireless (telecommunication) facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the

facility upon abandonment or cessation of operations. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town for all costs it incurs to perform any work required of the applicant by the agreement that the applicant fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.

- (12.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Town shall give 30 days' written notice of its intention to do so to the permittee at its last known address.

10.1-33 Wireless (telecommunication) facility, concealed.

(A.) Zoning Districts where additional standards below apply: All zoning districts.

(B.) Standards:

- (1.) Concealed wireless (telecommunication) facilities are permitted on buildings and alternative structures (other than off-premise signs and wireless (telecommunication) facilities).
- (2.) For purposes of this section, antennas mounted on an electric transmission tower shall qualify as a concealed wireless (telecommunication) facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more than two feet from the sides of the structure. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad and screened so as to make them unobtrusive.
- (3.) For purposes of this section, antennas mounted on an electric distribution tower, street lighting pole or traffic light pole shall qualify as a concealed wireless (telecommunication) facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more

than two feet from the sides of the structure, and equipment enclosures associated with the facility occupy less than 60 cubic feet. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground on a concrete pad. Electric distribution poles may be extended in height in R/MST zoning district to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning & Subdivision Administrator* or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

- (4.) Panel antennas associated with concealed wireless (telecommunication) facilities may not exceed eight feet in height. If flush-mounted on the side of a building or alternative structure, antennas shall be camouflaged to match or complement the color and architectural treatment of the surface. Antennas extending above the roof line of a building shall be concealed behind an RF-transparent parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building or structure. Such parapet walls or facades shall not extend more than ten feet above the roof line. Where a parapet wall is at least eight feet in height, omnidirectional (whip-type) antennas may extend above the parapet wall by a distance equal to the height of the parapet wall.
- (5.) Antennas associated with a concealed wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (6.) Electronic equipment associated with concealed wireless (telecommunication) facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, except as provided in subsection 10.1-33(B)(4) above, equipment enclosures shall be screened so as to make them unobtrusive.
- (7.) All cabling and wiring connecting antennas, equipment enclosures, and other components of concealed wireless (telecommunication) facilities shall be colored or concealed in a manner as to render them unobtrusive.
- (8.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

- (9.) Applicants for concealed wireless (telecommunication) facilities shall first be encouraged to consider properties owned by the Town or Rowan County, or instrumentalities thereof, before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for wireless (telecommunication) facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.
- (10.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless (telecommunication) facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (11.) As part of its application, each applicant for a concealed wireless (telecommunication) facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town of Spencer for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.
- (12.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Town shall give 30 days' written notice of its intent to do so to the permittee at its last known address.

10.1-34 Wireless (telecommunication) facility, Collocated.

(A.) Zoning districts where additional standards below apply: All zoning districts.

(B.) Standards:

- (1.) Application fees for a collocated wireless (telecommunication) facility shall be as established by the Town of Spencer.
- (2.) Wireless (telecommunication) facilities may be collocated on any structure which hosts one or more existing permitted and approved wireless (telecommunication) facilities provided, however, that the proposed collocated wireless facility must meet equipment enclosure and antenna size restrictions for the type of facility and zoning district in which the existing facility was approved (i.e., Micro and concealed wireless (telecommunication) facilities). The structure on which the wireless (telecommunication) facilities are to be located may be improved, rehabilitated, or altered structurally to accommodate the proposed collocation, provided that the height of a nonconforming structure is not increased and provided further that the proposed collocation complies with all other requirements of this chapter and other applicable laws and regulations.
- (3.) Where collocation is proposed by use of a combiner (allowing two or more commercial wireless service providers to share a common antenna or antenna array), an equipment enclosure which houses only the combiner and amplifiers may exceed the maximum permitted dimensions for other types of equipment enclosures up to a maximum of 70 cubic feet.
- (4.) Antennas associated with a collocated wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (5.) Collocated wireless (telecommunication) facilities shall be designed to meet the following standards:
 - (a.) Use of dual-band/multi-band antennas (to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands) or by using combiners (to allow antenna sharing by users of the same frequency band) is encouraged in order to minimize the height of support structures and the visual impact of multiple collocated antennas or antenna arrays.
 - (b.) Antennas associated with a collocated wireless (telecommunication) facility shall be mounted so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
 - (i.) Compact dual-polarized antennas in a cylindrical unicell arrangement extending less than two feet from the structure, and mounted atop the tower;

- (ii.) Panel antennas flush-mounted against the tower; and
 - (iii.) Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
- (c.) No collocated wireless (telecommunication) facility located on a wireless (telecommunication) facility shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.
- (d.) All equipment enclosures and other improvements accessory to a collocated wireless (telecommunication) facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure shall exceed 12 feet in height. Ground mounted equipment shall be screened from view with a row of evergreen trees and/or shrubs planted in a landscape strip with a minimum width of five feet, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (e.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
- (f.) Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence may be topped with barbed wire. The *Planning, Zoning & Subdivision Administrator* may require as a condition of approval that the fencing be screened by appropriate landscaping or other means, or may waive or modify the fencing requirement if he/she determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
- (g.) Signage at any ground-based portion of a collocated wireless (telecommunication) facility site shall conform to the following provisions:
- (i.) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.
 - (ii.) Equipment hazard warning and informational signs are permitted.

- (iii.) The posting of any other signs or advertising is prohibited at any wireless (telecommunication) facility or upon any wireless (telecommunication) facility.
- (6.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless (telecommunication) facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (7.) As part of its application, each applicant for a collocated wireless (telecommunication) facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the collocated facility within 180 days of the abandonment or cessation of operations of the collocated facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town of Spencer for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement when a separate equipment shelter is constructed to house the equipment for the collocated wireless (telecommunication) facility. A \$3,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement when the equipment for the collocated telecommunications facility is housed in an existing equipment shelter. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the collocated facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.
- (8.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Town shall give 30 days' written notice of its intention to do so to the permittee at its last known address.

- (9.) Collocated wireless (telecommunication) facilities shall not be constructed unless the facility owner has general liability coverage of at least \$1,000,000.00. The owner of a collocated wireless (telecommunication) facility shall provide the Town with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the Town 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.
- (10.) Modifications shall be permitted upon existing Wireless Support Structure (telecommunications tower) facilities provided, they do not exceed any of the following criteria:
- (a.) Increase in vertical height of the greater of either: 1) ten percent (10%), or 2) the height of one additional antennae array with separation from the nearest existing array of not more than twenty (20) vertical feet; provided the maximum height of 200 vertical feet is not exceeded.
 - (b.) Addition of an appurtenance protruding the greater of either: 1) more than twenty (20) feet, or 2) more than the width of the wireless support structure at the elevation of the appurtenance, unless:
 - (i.) necessary to shelter an antenna, and/or
 - (ii.) necessary to connect the antenna to the tower via cable
 - (c.) Increasing the square footage of the existing equipment compound by more than 2,500 square feet; provided all applicable minimum yard area, buffering and screening provisions are maintained.
- (11.) (Reserved)

10.1-35 Pawnshop or Used Merchandise Store.

- (A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.
- (B.) Standards:
- (1.) The owner shall comply with all applicable portions of NCGS Chapter 66, Article 45, Part 1: Pawnbrokers and Cash Converters.
 - (2.) Hours of operation: 8:00 A.M. until 8:00 P.M.
 - (3.) No outdoor storage or display of merchandise or goods.
 - (4.) No “unsightly window display” of appliances, tools, or housewares.
 - (5.) No window tinting.
 - (6.) Five hundred (500) feet of separation between pawnshops, measured in a straight line between front door entrances (inclusive of rights of way).
 - (7.) No pornographic or sexually explicit material sales on site.

10.1-36 Manufactured Dwelling/Home (MHO and/or replacement of existing unit on individual lot).

(A.) Zoning District where additional standards below apply: MHO and all zoning districts when replacing an existing manufactured dwelling per Article 22.5-2.

(B.) Standards:

- (1.) Manufactured Dwellings (Homes) on individual lots, not within a Manufactured Dwelling (Home) Park, may be multi-sectional or single-wide Manufactured Dwellings (Homes).
- (2.) The Manufactured Dwelling (Home) shall conform to the construction standards of the United States Department of Housing and Urban Development (HUD) and bear the HUD tag and/or data plate.
- (3.) The manufactured dwelling (home) shall have the towing apparatus, wheels, axles, and transporting lights removed.
- (4.) The manufactured dwelling (home) shall be set-up in accordance with the standards established by the North Carolina Department of Insurance for permanent installations.
- (5.) A continuous masonry foundation shall be installed under the perimeter, unpierced except for required ventilation, access and utility purposes.
- (6.) A permanent front porch of at least thirty-two (32) square feet in area shall be constructed within eight (8) inches of the finished floor elevation and be fully underpinned with masonry, equal to the permanent foundation in item 10.1-36(B)(5) above, to completely conceal the area beneath the porch and the Manufactured Dwelling (Home). All secondary entrances and exits to the Manufactured Dwelling (Home) shall also have concrete or masonry steps to the finished grade.
- (7.) The front of the Manufactured Dwelling (Home) shall be parallel to the front property line, except on corner lots.

10.1-37 Outdoor Storage.

(A.) Applicable to any Zoning Districts where Table 8.1, appearing in Article 8 of this Ordinance includes the Outdoor Storage of materials associated with a use listed with additional standards.

(B.) Exclusions include licensed motor vehicles titled to a resident and/or occupant of the property, provided such vehicles are not in violation of the provisions of Section 10.1-22 of this Article.

(C.) Standards:

- (1.) In all zoning districts where storage of bulk materials, inventory, customer owned property, and/or equipment is stored outdoors more than three (3) consecutive calendar days the site shall:
 - (a.) consist of a minimum of five (5) acres for uses other than Utility Substations;

- (b.) provide for the screening and buffering along all site perimeter of the area designated for Outdoor Storage on an approved site plan with a Type D Buffer Yard, except where the site abuts an adjacent Zoning District requiring the provision of a Buffer Yard in accordance with Table 11.1 appearing in Article 11 of this Ordinance.

10.1-38 Solar Energy System (SES).

- (A.) This section applies to the construction of any new SES within the zoning jurisdiction of the town.
- (B.) An SES established prior to the effective date of this chapter shall be exempt.
Exception: Modification to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g. photovoltaic to solar thermal) shall be subject to this chapter.
- (C.) Maintenance and repair are not subject to this section.
- (D.) This chapter does not supersede regulations from local, state, or federal agencies.
- (E.) Aviation notification. The following requirements apply only to Level 1, Level 2, and Level 3 systems over one-half an acre in size:
 - (1.) A map analysis showing a radius of five nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.
 - (2.) For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for applicable Level 1 and Level 2 SESs. Notification shall include location of SES (i.e. map, coordinates, address, parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, and the like), and the area of system (e.g. five acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.
 - (3.) The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the Zoning Administrator, shall be sent to the authority indicated below at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for Level 1 and Level 2 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application.
 - (a.) Airport operations at airports in the National Plan of Integrated Airport Systems (NPIAS) within five nautical miles of the center of SES: provide required information to the Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.
 - (b.) Airport operations at airports not in the NPIAS, including military airports, within five nautical miles of the center of SES: provide required information to the NC

Commanders Council for military airports and to the management of the airport for non-military airports.

- (4.) Any applicable SES design changes (e.g. module tilt, module reflectivity, and the like) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in divisions (E)(3)(a) and (E)(3)(b) above for accurate records of the as-built system.
- (F.) Level 1 SESs are a permitted use provided they meet the applicable height, setback, aviation notification, and related district standards.
- (G.) Level 2 and Level 3 solar energy system requirements. These requirements are in addition to height, setback, aviation notification, and applicable district standards.
 - (1.) Site plan. A **site development plan in accordance with Section 7.7 of this Ordinance** shall be submitted to the *Planning, Zoning & Subdivision Administrator* demonstrating compliance with setback and height limitations, applicable zoning district requirements such as lot coverage, and **applicable requirements of this section.**
 - (2.) Visibility.
 - (a.) Level 1 SESs shall be constructed with buffering as required by the applicable zoning district or development standards.
 - (b.) Level 2 & 3 SESs shall be constructed with buffering as required by the applicable zoning district or development standards such that a complete visual separation is achieved from adjoining uses of a lower intensity (or residential uses).
 - (c.) Public signage (i.e. advertising, educational, and the like) as permitted by local signage ordinance, including appropriate or required security and safety signage.
 - (d.) If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.
 - (3.) Decommissioning.
 - (a.) A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with the permit application.
 - (i.) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, and the like).
 - (ii.) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations.
 - (iii.) Restoration of property to condition prior to development of the SES.
 - (iv.) The timeframe for completion of decommissioning activities.
 - (v.) Description of any agreement (e.g. lease) with the landowner regarding decommissioning.
 - (vi.) The party currently responsible for decommissioning.
 - (vii.) Plans for updating this decommissioning plan.
 - (b.) Prior to the issuance of a building permit, the owner of a SES site shall provide a surety or performance bond that renews automatically or irrevocable letter of credit in favor of the town in an amount equal to the estimated removal cost of the solar collectors, cabling, electrical components, and any other associated facilities, less the salvage value of the equipment prior to construction. A bond certificate must be submitted to the Land Management Department each year verifying the bond has

been properly renewed. If the SES owner elects to use a letter of credit, it shall be issued by a federally chartered bank with a branch office in central North Carolina. The bond or letter of credit shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the conditional use permit.

- (c.) Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Register of Deeds.
- (4.) Parcel line setbacks. Dimensional requirements and setbacks to SES equipment, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility, must comply with the underlying zoning district requirements in § 155.054. However:
 - (a.) Sight distance. Ground-mounted SES must also not impair sight distance for safe access to or from the property or other properties in the vicinity.
 - (b.) Screening. Level 1 SESs are subject to screening requirements typically applied to accessory utility systems (HVAC, dumpsters, and the like).
 - (c.) Height. The height of systems will be measured from the highest natural grade below each solar panel. Height limitations exclude utility poles and any antennas constructed for the project.
 - (i.) Roof-mounted. Per underlying zoning district.
 - (ii.) Ground-mounted Level 1. Ground-mounted Level 1 systems shall be limited to ten feet maximum height.
 - (iii.) Ground-mounted Level 2 & 3. Ground-mounted Level 2 & 3 systems shall be limited to 20 feet maximum height.
 - (d.) The parcel line setback to ground-mounted SES equipment, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility shall be as required for Principal Structures in all districts.
- (5.) Prevention of clustering.
 - (a.) No new SES shall be allowed within one geodesic mile of an existing or previously permitted SES within the corporate limits of the town or within the town's extraterritorial jurisdiction.
 - (b.) No new SES will be allowed inside the corporate limits of the town or within the town's extraterritorial jurisdiction, within 400 feet of a main entrance corridor into the town. For the purposes of this division, the main entrance corridors are defined as N US 29 Hwy/Salisbury Ave, Long Ferry Rd. 3rd Street/Hollywood Dr. and 7th Street/7th Street Extension.

10.2 Special Uses

10.2-1 Purpose. Certain uses may wish to locate in the Town of Spencer and its area of jurisdiction, which, due to their size and/or operation, have impacts that could adversely impact neighboring uses or the community as a whole. Due to the potential impacts of these uses, they must meet certain conditions to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require conditions and establishes the conditions they must meet. A Special Use Permit must be granted for these uses in accordance with the procedures set forth in Article 7.

10.2-2 Special Uses Established. The following Special Uses and the minimum conditions they must meet are hereby established.

10.2-3 Adult Establishment.

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) No lot containing an adult use shall be located within a 1,200-foot radius of any lot containing another adult use.
- (2.) No lot containing an adult use shall be located within a 1,200-foot radius of any residential or mixed-use zoning district.
- (3.) No lot containing an adult use shall be located within a 1,200-foot radius of any dwelling unit, church or place of worship, school, library, licensed child care center, public recreation center, or public park or playground.
- (4.) The required distance shall be measured from the closest edge of the property occupied by an adult use to the closest edge of the property occupied by a protected use, zone, or by another adult use. Provided, however, that if an adult use is located in a multi-tenant facility, the distance shall be measured from the closest edge of the portion of the facility occupied by such use.
- (5.) No more than one adult establishment may be located within the same structure or on the same lot.
- (6.) In the interest of public health and safety, mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.
- (7.) Except for permitted business identification signage, no printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the adult use.

10.2-4 Agricultural Based Business Facility.

(A.) Zoning District where the conditions appearing below apply: “AG”; however, this use is also listed without supplemental standards in “IND”

(B.) Conditions:

- (1.) The facility shall be located on a lot or parcel of no less than four (4) acres and is not included in the *Bona Fide Farm* exemption.
- (2.) The facility may include agricultural, horticultural, vintner, brewing, bottling, packaging, research, manufacturing, production, and/or public venues for interactive participation and/or consumption operations of products for human consumption.
- (3.) Accessory activities may include entertainment venues, tasting rooms/bars, retail outlets, distribution facilities, and/or restaurant services in accordance with applicable laws.
- (4.) The facility shall not include feed lots, slaughtering and/or meat packaging operations.
- (5.) Buildings shall meet the following design standards:
 - (a.) Maximum footprint: 45,000 SF
 - (b.) Maximum height: 42 feet (excluding silos and related attachments)
 - (c.) Exterior building materials shall consist of wood siding, wood shingles, fiber cement siding, brick, rock, or other high-quality masonry material. No vinyl or metal siding shall be permitted.
- (6.) Minimum 300-foot distance between manure storage areas, barns, or stables and any adjacent residentially zoned property.

10.2-5 Amusement/Water Parks, Fairgrounds.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) Outdoor amusement facilities will be separated by a type C buffer (see Article 11) from any abutting property located in a residential or mixed-use district
- (2.) No amusement facilities, water slides, or mechanical rides shall be located within 200 feet of any abutting property located in a residential district.
- (3.) Hours of operation will be no earlier than 8:00 a.m. and no later than 10:00 midnight.

10.2-6 Asphalt Plant.

(A.) Zoning District where the conditions appearing below apply: “HIO”

(B.) Conditions:

- (1.) The facility shall be located on a lot of no less than five (5) acres.
- (2.) Access shall be from a collector or higher classification street. No trucks traffic shall be permitted on surrounding residential streets.
- (3.) A minimum of a type A buffer (see Article 11) shall be located around the perimeter of the property on which the asphalt plant is located.
- (4.) All operations other than parking shall be located a minimum of 1,000 feet from any residential or mixed-use zoning district.
- (5.) The facility shall comply with the requirements of Article 10.2-16.

10.2-7 Equestrian Facility.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) The facility will not be in conflict with the purpose and objectives set forth in this ordinance for the zoning district in which the facility is located.
- (2.) The facility shall be located on a lot of no less than five (5) acres.
- (3.) Outdoor riding rings may be provided as part of the facility.
- (4.) Minimum 300-foot distance between manure storage areas, barns or stables and any adjacent residentially zoned property.
- (5.) Maximum number of horses boarded is 2 per acre.
- (6.) Buildings shall meet the following design standards:
 - (a.) Maximum footprint: 15,000 SF
 - (b.) Maximum height: 42 feet (excluding silos and related attachments)
 - (c.) Exterior building materials shall consist of wood siding, wood shingles, fiber cement siding, brick, rock, or other high-quality masonry material. No vinyl or metal siding shall be permitted.

10.2-8 Group Care Facility.

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

- (1.) No such facility shall be located within one-half (1/2) mile of an existing group care facility unless located within the Civic (CIV) district and/or specifically approved within a Traditional Neighborhood Development Overlay (TNDO) district.
- (2.) The facility shall be limited to no more than thirty (30) persons.
- (3.) Buildings shall be of a type permitted in the zoning district.

10.2-9 Junkyards and/or Salvage Yards, Auto Parts.

(A.) Zoning District where the conditions appearing below apply: “IND” with “HIO”

(B.) Conditions:

- (1.) The minimum area required to establish a salvage yard shall be five (5) acres.
- (2.) A six-foot-tall opaque fence of uniform construction and a type A buffer shall be placed around the perimeter of the use; plantings shall be on the exterior side of the fence.
- (3.) No salvage yard, scrap processor, or auto wrecking shall be located within three hundred (300) feet of any residence existing or under construction at the time of installation of such operation or business.

10.2-10 Manufactured Dwelling Park.

(A.) Zoning District: MHO

(B.) Conditions:

- (1.) Minimum area: Five (5) acres.
- (2.) The minimum number of spaces shall be 15 and the maximum number of spaces shall be 180.
- (3.) Minimum setback: 70 feet from all public rights-of-ways and property lines.
- (4.) No more than one manufactured dwelling or recreational vehicle, towed or self-propelled, shall be parked or set-up on any one space.
- (5.) Access standards:
 - (a.) No space shall have direct vehicular access to a public street;
 - (b.) All spaces shall directly abut a private street in the park;
 - (c.) Each space shall have adequate access, with a minimum access width of 20 feet.
- (6.) Recreational Areas and Facilities: Recreational areas and facilities to serve the needs of the anticipated population within the park shall be provided and shall consist of at least:

- (a.) A play lot for preschool children (2-5) containing a minimum size of 1,200 square feet within 500 feet of every space; and
 - (b.) One or more playgrounds for school-age children (5-12), teens and adults, containing a minimum of one acre per 40 spaces;
 - (c.) Recreation areas shall not be in an area used for septic tank fields.
- (7.) There shall be no sales of manufactured dwelling and recreational vehicles in the park, other than units established and previously occupied for a minimum of 90 consecutive days on-site.
- (8.) Drainage and Grading:
- (a.) The spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the park. Where storm drainage pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the park.
 - (b.) Each space shall be graded and grassed to prevent erosion and provide adequate storm drainage away from the manufactured dwelling or recreational vehicle pad.
 - (c.) The surface slope of the stand or pad shall not exceed 3%.
 - (d.) No banks, except along drainage ditches, shall have a slope steeper than three feet to one foot (3:1).
- (9.) Garbage and Refuse Disposal: All refuse shall be stored in conveniently located, leak-proof containers with tight-fitting lids. Containers shall be provided in sufficient number and capacity for proper storage of all refuse. Racks or concrete platforms shall be provided on which to store containers for refuse. The containers, racks, and/or platforms shall be so designed as to prevent tipping, to minimize spillage and container deterioration, and to facilitate cleaning. Dumpsters shall be required in lieu of individual containers in areas where municipal water or sewer are available. All refuse shall be collected at least weekly, or more often if the need is indicated.
- (10.) Registration: It shall be the duty of the operator to keep an accurate register containing a record of all occupants. The register shall contain the following information:
- (a.) Name, address and space number of each occupant;
 - (b.) The date the manufactured dwelling or recreational vehicle entered the park;
 - (c.) The license number of each recreational vehicle and/or car, truck, etc. with state of issuance, makes, and type of vehicle.
- The operator shall keep the register available at all times for inspection by the Code Administrator, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.

- (11.) Park Manager Residence: A single-family detached dwelling may be provided for the manager of the park.
- (12.) Pre-existing Dwellings: Pre-existing dwellings on the site may remain provided they occupy approved spaces.
- (13.) Design Requirements Applicable to Manufactured Dwelling Parks: The following design requirements apply to Manufactured Dwelling Parks:
- (a.) Minimum Manufactured Dwelling Space Size: A manufactured dwelling space shall consist of a minimum of 6,000 square feet and shall have a width of at least 45 feet at the location of the manufactured dwelling stand.
Exception: A manufactured dwelling space not served by public sewer shall consist of a minimum of 40,000 square feet and shall have a width of least 120 feet at the location of the manufactured dwelling stand. Every manufactured dwelling space shall be clearly established on the ground by permanent monuments or markers.
 - (b.) Each Manufactured dwelling space shall contain:
 - (i.) a manufactured dwelling stand consisting of a properly graded and compacted surface no less than 13 feet by 60 feet;
 - (ii.) a patio space constructed of concrete, brick, flagstone or other hard surface material a minimum of 240 square feet in area;
 - (iii.) a hard surface walkway a minimum of two feet wide leading from the patio to the parking space or road;
 - (c.) Manufactured Dwelling Additions: Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that setback within the space can be met and a building permit is obtained.
 - (d.) Construction and Design of Private Streets:
 - (i.) Private entrance, collector, and interior streets with no parking or minor cul-de-sac streets with no parking shall meet the minimum design standards for private streets as set forth in the Town of Wilson's Mills Technical Standards and Specifications Manual;
 - (ii.) One-way minor streets with no parking (acceptable only if less than 500 feet total length and serving less than 15 manufactured dwelling stands) shall have a 20-foot minimum right-of-way with 12-foot minimum paved surface;
 - (iii.) all private streets shall have signage in accordance with Town standards for safety and identification;
 - (iv.) Private streets shall be lighted at night with cut-off fixtures meeting the standards of the Town for streetlights.

- (e.) Park Access: If a manufactured dwelling park has more than one (1) direct access to a public street, such access points shall be no less than 200 feet apart and no closer than 300 feet to a public street intersection.
- (f.) Parking:
 - (i.) Two parking spaces, a minimum of 9 feet by 18 feet, shall be provided within each manufactured dwelling space;
 - (ii.) All parking spaces shall be paved or covered with four inches (4”) of crushed stone;
 - (iii.) No parking shall be allowed on private entrance and collector streets.
- (g.) Landscaping: Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.
- (h.) Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be or removed from the manufactured dwelling park.
- (i.) Utilities Installation: Each manufactured dwelling located within a park shall comply with the current North Carolina Regulations for manufactured dwelling in both manufacture and installation and must be inspected to assure compliance prior to occupancy.
 - (i.) All utilities shall be installed underground except where extreme conditions of topography make this requirement unreasonable.
 - (ii.) Placement of utilities serving the manufactured dwelling stand shall comply with the NC Building Code for Plumbing.
 - (iii.) Minimum electrical service of 200 ampere, 120-240 volt single phase shall be provided to each manufactured dwelling stand. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.
 - (iv.) Each manufactured dwelling shall be required to connect to the utilities provided at each manufactured dwelling space.
 - (v.) Each manufactured dwelling park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the Johnston County Health Department. The water supply and pressure shall be adequate for the park requirements. Water for drinking, cooking, laundry, and general sanitary uses for each individual manufactured dwelling shall be obtained only from faucets or other plumbing connections located within each manufactured dwelling.
 - (vi.) Each manufactured dwelling park shall be provided with an adequate sewage disposal system, either by connection to a public sewer or a septic tank constructed in compliance with the regulations of the Johnston County Board of Health. All sewage wastes from toilets, showers,

bathrooms, lavatories, wash basins, refrigerator drains, sinks, faucets, and water-using appliances not herein mentioned shall be piped into the manufactured dwelling park sewage disposal system.

(j.) Fuel Oil Drum: Each manufactured dwelling that requires the use of fuel oil shall be furnished with an oil drum having a minimum capacity of one hundred fifty (150) gallons, set upon a painted, prefabricated metal stand.

(k.) Manufactured Dwelling Design Standards: Each manufactured dwelling shall have a roof pitch of at least 5 feet of rise for each 12 feet of horizontal run and a minimum width of 12 feet.

10.2-11 Petroleum and Petroleum Products, Fuel Oil Sales (including bio-fuel) Storage and/or Transfer Facilities.

(A.) Zoning District where the conditions appearing below apply: “IND” with “HIO”

(B.) Conditions:

- (1.) Minimum lot area shall be five (5) acres.
- (2.) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the Town of Spencer.
- (3.) The use shall be buffered from adjacent properties and public streets with a type B buffer (see Article 11).
- (4.) Hazardous Industry Overlay District (HIO) conditions and standards apply.
- (5.) The facility shall comply with the requirements of Article 10.2-16.

10.2-12 Sewage Treatment Plant.

(A.) Zoning District where the conditions appearing below apply: “IND”

(B.) Conditions:

- (1.) Minimum site area shall be ten (10) acres.
- (2.) All buildings, lagoons, outdoor treatment areas, and other facilities shall be located at least 1,000 feet from residential and mixed-use zoned property.
- (3.) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the Town of Spencer.
- (4.) Use shall be managed and operated by a municipality, county, or other governmental entity.

10.2-13 Shooting Range, Indoor.

(A.) Zoning District where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

(1.) Access shall be controlled to prevent unregulated entrance to firing area.

10.2-14 Wireless Support Structure (Telecommunications Tower).

(A.) Zoning Districts where the additional standards for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

(1.) Wireless Support Structure (telecommunications towers) in the Main Street (MS) district must be a monopole design that does not exceed one-hundred and fifty (150) feet in height from average adjacent grade.

(2.) The Town may elect to retain outside consultants or professional services to review a special use application for a Wireless Support Structure (telecommunications towers) and to make recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives, conditions of approval, and compliance with state and federal rules and regulations at the applicant's expense.

(3.) In addition to the notice requirements found elsewhere in this Ordinance, the applicant for a special use permit for a Wireless Support Structure (telecommunications towers) shall be required to notify by regular mail all property owners within a one-quarter mile (1,320 feet) radius of the proposed location of any evidentiary hearing on the application at least ten days prior to the hearing. The *Planning, Zoning & Subdivision Administrator* may require the applicant to conduct a crane or balloon test to simulate the height of the proposed tower. Notice of the dates and times of such tests shall be mailed by the applicant to all property owners within a one-quarter mile (1,320 feet) radius of the proposed location at least ten days prior to the primary test date. The notice shall state primary and alternate test dates, as well as a range of dates for testing in the event of extended periods of inclement weather. The *Planning, Zoning & Subdivision Administrator* shall review and approve the sufficiency of the notice prior to mailing and, as part of its application, the applicant will be required to submit a certificate of mailing and attach a copy of the notice and a list of the addresses to which it was sent. In the event the applicant shall seek to increase the height of a proposed Wireless Support Structure (telecommunications towers), or move its location more than 150 feet laterally, from that stated in the original notices, additional notice shall be required to be given in accordance with the above provisions and all time-periods shall run from the date of supplemental notification.

- (4.) Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for Wireless Support Structure (telecommunications towers) and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.
- (5.) Wireless Support Structure (telecommunications towers) proposed on public right-of-way under the ownership or control of the North Carolina Department of Transportation or the Town of Spencer shall be limited to a height no greater than 50 feet and typical highway lighting towers in both height and appearance and shall be clustered amongst or near such towers so as to be unobtrusive. If any portion of a Wireless Support Structure (telecommunications towers) located on such properties is used to mount cameras, instruments, sensors or antennas for governmental use, and the same structure supports or incorporates commercial wireless telecommunication facilities, the governmental use shall be deemed incidental or accessory to the commercial use and the entire facility shall be treated as a commercial use for purposes of this section.
- (6.) It is the policy of the Town to encourage collocation and the use of existing structures where appropriate. In furtherance of that policy objective, the following provisions shall apply to an application for a special use permit for a Wireless Support Structure (telecommunications tower):
- (a.) A special use application for a Wireless Support Structure (telecommunications towers) shall not be approved if an electric transmission tower is located above, or no less than 25 feet below, the ground elevation of and within the search radius and/or ring of a proposed wireless (telecommunication) facility, unless the applicant can demonstrate one or more of the following:
- (i.) That sufficient easements or other interests in real property cannot be obtained to accommodate the wireless (telecommunication) facility;
- (ii.) That the electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;
- (iii.) That the applicant is unable to gain sufficient ingress and egress to the electric transmission tower;
- (iv.) That the existing use of the electric transmission tower would interfere with the operations of the applicant as documented by a qualified and licensed North Carolina engineer and the interference cannot be prevented;
- (v.) That the planned equipment would exceed the structural capacity of the electric transmission tower as documented by a qualified and licensed

North Carolina professional engineer, and the electric transmission tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

- (b.) Electric transmission towers may be increased in height to that allowed for Wireless Support Structure (telecommunications towers) in the district in which the electric transmission tower is located if the Town Board of Aldermen determines such height extension is preferable to placement of a new Wireless Support Structure (telecommunications towers) in that area.
- (c.) A special use application for a Wireless Support Structure (telecommunications towers) shall not be approved unless the equipment planned for the proposed tower cannot be accommodated on existing or approved wireless (telecommunication) facilities, buildings or alternative structures more than 30 feet in height (after first considering electric transmission towers) within a one-quarter mile (1,320 foot) radius of the proposed Wireless Support Structure (telecommunications towers) due to one or more of the following reasons:
 - (i.) The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - (ii.) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment on the towers, buildings or alternative structures, as documented by a qualified and licensed North Carolina engineer, and the interference cannot be prevented at a reasonable cost.
 - (iii.) Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.
 - (iv.) Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon existing or approved towers, buildings or alternative structures.
- (d.) Antennas associated with a wireless (telecommunication) facility may not be collocated on a tower or other support structure used by an amateur radio operator.
- (e.) No wireless (telecommunication) facility shall interfere with usual and customary radio and television reception excepting broadcast facilities as

provided for in the regulations of the FCC.

- (7.) All wireless (telecommunication) facilities must comply with FCC and FAA regulations.
- (8.) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the Wireless Support Structure (telecommunications tower) and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless (telecommunication) facilities, the applicant may certify that such licenses remain in full force and effect.
- (9.) As part of its application, each applicant for a Wireless Support Structure (telecommunications towers) shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town of Spencer for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 performance guarantee in accordance with Sub-section 16.1-9 of this Ordinance shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such performance guarantee until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless (telecommunication) facility at their principal place of business and governmental users are exempt from the bond requirement.
- (10.) Abandoned or unused wireless (telecommunication) facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless (telecommunication) facility pursuant to this provision, the Town shall give 30 days written notice of its intention to do so to the permittee at its last known address.
- (11.) All wireless (telecommunication) facilities shall comply with FAA lighting requirements. In addition, in a specific instance, the Town may impose lighting requirements for a tower that is not required by FAA regulations to be lit.
- (12.) Except as otherwise provided herein, minimum setbacks for wireless (telecommunication) facilities shall be in accordance with the setback

requirements set forth in the development standards for the district in which the location of the tower is proposed. In addition, wireless (telecommunication) facilities must be set back from any residentially zoned or residentially used properties a distance equivalent to one-half the height of the tower being erected. The Town Board of Aldermen may reduce the setback requirement upon a showing by the applicant that there are special physical circumstances or conditions affecting the proposed site such that the strict application of the setback requirement would not allow the most effective use of the proposed site to minimize the visual impact of the wireless (telecommunication) facility.

- (13.) Wireless (telecommunication) facilities shall be buffered from adjacent properties with a buffer which, at a minimum, meets the requirements of a Type B buffer as described in Article 11 of this ordinance, regardless of adjacent zoning district classifications or uses.
- (14.) No wireless (telecommunication) facility shall be located:
 - (a.) On top of buildings; or
 - (b.) In a locally or nationally designated historic area or property or on a nationally or locally designated historic structure or building. Nor shall a Wireless Support Structure (telecommunications tower) be located such that it adversely impacts the historic integrity of a locally or nationally designated historic area, property, or structure.
- (15.) In cases where an applicant is required to perform an environmental assessment (EA) or an environmental impact statement (EIS) under the National Environmental Policy Act or the National Historic Preservation Act, such EA or EIS shall be submitted as part of its application for a special use permit. An application for a special use permit will not be deemed complete until any required EA or EIS has been submitted to the Town.
- (16.) Wireless (telecommunication) facilities shall not be constructed unless the company erecting the tower has general liability coverage of at least \$1,000,000.00. The owner of a wireless (telecommunication) facility shall provide the Town with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the Town 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.
- (17.) Wireless (telecommunication) facilities shall be designed to meet the following standards:
 - (a.) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. The Town Board of Aldermen may condition approval on the use of specific concealment techniques where it determines that doing so is

- necessary or desirable.
- (b.) Guyed towers are prohibited. Commercial Wireless Support Structures (telecommunications towers) shall be of a monopole design unless the Town Board of Aldermen determines that an alternative design would better blend in to the surrounding environment.
 - (c.) Use of dual-polarized antennas which electronically combine the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated), dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna), and use of combiners (allowing antenna sharing by providers using the same frequency band) are encouraged.
 - (d.) Antennas shall be mounted on Wireless Support Structure (telecommunications towers) so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
 - (i.) Compact dual-polarized antennas in a cylindrical uni-cell arrangement extending no more than two feet from the sides of the supporting structure and mounted atop the tower;
 - (ii.) Panel antennas flush-mounted against the tower;
 - (iii.) Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
 - (e.) No Wireless Support Structure (telecommunications towers) shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.
 - (f.) All equipment enclosures and other improvements accessory to a Wireless Support Structure (telecommunications towers) shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed 12 feet in height. Ground mounted equipment shall be screened from view with a minimum "B" buffer (see Article 11), except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (18.) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and

maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

- (19.) Wireless Support Structure (telecommunications towers), equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence shall not be topped with barbed wire. The Town Board of Aldermen may require as a condition of approval that the fencing be screened by appropriate landscaping or other means. The Town Board of Aldermen may waive or modify the fencing requirement if it determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
- (20.) Wireless (telecommunication) facilities shall have a flat gray or galvanized finish unless the Town Board of Aldermen determines another color scheme would be a preferable aesthetic alternative.
- (21.) No two Wireless Support Structure (telecommunications towers) shall be constructed within 1,320 feet of each other unless documentation is provided to the *Planning, Zoning & Subdivision Administrator* to show that collocation on towers within the 1,320 feet is not technically feasible.
- (22.) No wireless (telecommunication) facility shall be permitted that exceeds 200 feet in height.
- (23.) Signage at any wireless (telecommunication) facility site shall conform to the following provisions:
 - (a.) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.
 - (b.) Equipment hazard warning and informational signs are permitted.
 - (c.) The posting of any other signs or advertising is prohibited at any wireless (telecommunication) facility or upon any wireless (telecommunication) facility.
- (24.) The Town Board of Aldermen may require any other conditions deemed necessary or desirable to ameliorate the impact of the tower on the adjacent properties and uses. Such conditions shall include but are not limited to: the height of the tower; the construction or type of tower; lighting; and collocation of the antennas and facilities of different parties on a single tower.
- (25.) A special use approval for a Wireless Support Structure (telecommunications towers) shall become null and void if the facility is not constructed and placed in service within twenty-four months of the date of approval provided, however, that the special use approval may be extended one time for six months if substantial

construction has commenced before the end of the initial twenty-four month period.

(26.) Modifications shall be permitted upon existing Wireless Support Structure (telecommunications tower) facilities provided they do not exceed any of the following criteria:

(a.) Increase in vertical height of the greater of either: 1) ten percent (10%), or 2) the height of one additional antennae array with separation from the nearest existing array of not more than twenty (20) vertical feet; provided the maximum height of 200 vertical feet is not exceeded.

(b.) Addition of an appurtenance protruding the greater of either: 1) more than twenty (20) feet, or 2) more than the width of the wireless support structure at the elevation of the appurtenance, unless:

(i.) necessary to shelter an antenna, and/or

(ii.) necessary to connect the antenna to the tower via cable

(c.) Increasing the square footage of the existing equipment compound by more than 2,500 square feet; provided all applicable minimum yard area, buffering and screening provisions are maintained.

10.2-15 Electronic Gaming Operation, Including Game Rooms, Coin Operated Video Game Room

(A.) Zoning District where the conditions for this use below are applicable are identified in Article 8, Table 8.1 of this Ordinance.

(B.) Conditions:

(1.) Separation from Residential Zoning - Electronic Gaming Operations (whether principal uses, or accessory to another use) shall be located no closer than 500 feet in any direction from any property zoned for residential use.

(2.) Separation from Certain Uses - No Electronic Gaming Operation shall be located within 1,500 feet in any direction from any other Electronic Gaming Operation, or from any cemetery, Group Living facility, religious institution, public or private child care center or child care facility, public or private school or non-profit club. This required separation shall apply whether the above uses are principal or accessory uses.

(3.) Major Gateway Setbacks - All Electronic Gaming Operations shall maintain a two hundred (200) foot setback along the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way and shall extend one mile inward from the Town limit line. For the purposes of this standard a major gateway is identified as an entry way into the zoning jurisdiction along any of the following transportation corridors:

(a.) US 29

(b.) Long Ferry Road

- (4.) Measurement - All measurements in this Section shall be from the outer building walls of the proposed use to the nearest property line of the above specified uses, and such measurement shall be in a straight line without regard to intervening structures.
- (5.) Hours of Operation, Access and Visibility - No Electronic Gaming Operations shall engage in business prior to 10:00 a.m. or after 12:00 midnight. During hours of operation, electronic gaming operations shall be open for direct, unobstructed access by police, fire and emergency response personnel. All entrance doors shall remain unlocked while patrons are on the premises. All Electronic Gaming Operations terminals, computers, machines, and/or gaming stations shall be open and visible from the exterior front of the establishment.
- (6.) Age Restrictions - No person or entity engaged in Electronic Gaming Operations shall allow, permit or condone any person under the age of eighteen (18) to be upon the premises while patrons are engaged in Electronic Gaming Operations.
- (7.) Signage - Signage shall meet all the requirements of Article 17. Sign Regulations and the following requirements. No signs shall be posted on the windows of the property which are visible from the exterior of the development. No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulated, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment. All rules of the electronic games shall be displayed prominently within the establishment.
- (8.) Parking - Parking shall be provided at the rate of one (1) space per full time employee and one (1) space per gaming terminal and/or electronic gaming machine in the establishment and in accordance with Article 12 Off-street Parking, Stacking and Loading Areas.
- (9.) Maximum Number of Terminals - The maximum number of terminals, computers, machines, and/or gaming stations permitted within an Electronic Gaming Operation is twenty (20).
- (10.) Compliance with Other Regulations - The Electronic Gaming Operation shall be subject to any Town of Spencer privilege license fees, and shall be subject to all other standards of the Town of Spencer and State of North Carolina as applicable

10.2-16 Hazardous Industries

(A.) Zoning District where the conditions appearing below apply: “IND” with “HIO”

(B.) Conditions:

(1.) Minimum Building/Parking Lot/Storage Area Setbacks:

(a.) The minimum building/parking/storage area setbacks shall be as follows:

(i.) From any arterial or collector street right-of-way – 500 feet

(ii.) From any local street right-of-way – 500 feet

(iii.) From an interior lot line adjacent to a school or day care facility –500 feet

(iv.) From an interior lot line adjacent to a residential zoning district – 500 foot

(v.) From an interior lot line adjacent to a non-residential zoning district – 250 foot.

(2.) Building Height Requirements:

(a.) The maximum building height for a structure adjacent to a residential or commercial zoning district shall be no greater than 40 feet

(b.) The maximum building height for a structure adjacent to an industrial zoning district – no height restrictions.

(3.) Additional Requirements:

(a.) Any such hazardous industry facility shall be serviced by a public water and wastewater system.

(b.) Any such hazardous industry facility shall be enclosed with a security fence of adequate height and structure that would reasonable prohibit access to the site by the general public. All security gates and/or gate houses shall be set back a minimum of 50 feet from the public right-of-way line.

(c.) All *Chemical Bulk Storage Structures and/or Areas* housing the storage of bulk liquid and/or hazardous or toxic materials shall be set back from any property line a minimum of 550 feet.

(d.) There shall be no industry created noise more than 50 decibels as measured at the property line and no objectionable noise due to extreme frequency, beat frequency, intermittence or shrillness.

(e.) There shall be no industry created ground vibration measurable at any lot line of an industrial unit.

(f.) There shall be no industry created air pollution including:

(i.) No noxious odors; no noxious, toxic or corrosive gases or fumes.

(ii.) No smoke of a density in excess of #1 on the Ringelmann Chart. In cases of smoke other than black in color, and approved density scale equivalent to the Ringelmann Chart shall be used.

(iii.) No dust or other particulate matter emitted in excess of 0.85 pounds per 1,000 pounds of gases adjusted to 12% carbon dioxide. There shall be no surface or subsurface discharge or disposal of any wastes, either liquid or in any form without prior approval of the Oversight Board.

(iv.) There shall be no unusual fire or explosion hazards. Based on the National Board of fire insurance rates which classifies industrial units as Class I, Class II, and Class III, the following shall apply:

1. No special controls on a manufacturing unit determined to be Class I other than under [3] below.

2. Class II and Class III manufacturing units shall be contained in a building designed and constructed in accordance with its class and according to provisions of the building code published by the Building Officials and Code Administrators, International [BOCA], 1313 East 60th Street, Chicago, Illinois, 60637.

3. Machinery or equipment shall be treated as necessary to eliminate hazards.
 4. Uses which are customarily incidental and accessory to the principal use shall be permitted including, but not limited to: dwelling quarters for watchmen and caretakers employed on the premises, recreation areas and facilities for persons employed by industries within the same district's boundaries, restaurants, warehouses and commercial uses that are permitted in the "C-85" Commercial District.
- (v.) Businesses that produce, store or use hazardous materials, as defined by the Environmental Protection Agency's (EPA) Hazardous Substances or Prior Pollutants lists shall be allowed only when the items listed in Section 154.111 are met.
- (vi.) Miscellaneous Prohibitions:
1. Any interference with any other process, equipment, appliance or devices and any mechanical, electrical or other equipment which could create such interference shall have all necessary shielding or other protection.
 2. In any industrial unit or accessory all operations and storage, other than for passenger vehicles of visitors and employees, trucks and over the road vehicles, shall be within an entirely enclosed building or structure. Exemption: Outside storage of bulk or large raw materials which are fireproof if enclosed by a security fence with provisions for visual inspection and where screened from public view in its entirety from adjacent properties and public streets/roadways.
- (g.) Operations and Closure Plans Required:
- (i.) An emergency operations plan shall be developed and be on file at the Town of Spencer and Rowan County Emergency Management Offices and reviewed for update annually. An operations plan shall be submitted to include:
 1. The date of commencement of operations and their expected duration;
 2. Proposed hours and days of operation;
 3. A complete description of operation, including source of materials, method of compaction, type of sealing proposed to be used, types and number of equipment to be used and disposal of by-products;
 4. Any phasing schedule of operations and relationship among phases,
 5. Operating practices to be followed to ensure compliance with regulations of this ordinance, and;
 6. Complete assessment by the local Fire Department in conjunction with local emergency management agencies that all necessary equipment, training, and personnel are available at the emergency response level to adequately handle all emergency scenarios.
 - (ii.) A closure plan shall be prepared and submitted in accordance with United States Environmental Protection Agency (USEPA) guidelines as part of the application for a zoning map amendment to establish the HIO district.

(h.) Hazardous Chemical Notification and Inventory Reporting

(i.) EPCRA Section 311-312 applies to any facility at which a hazardous chemical, as defined by the Occupational Safety and Health Act, is present in an amount exceeding a specified threshold. These facilities must submit -- to the SERC, LEPC, and local fire department -- material safety data sheets (MSDSs) or lists of MSDSs and hazardous chemical inventory forms (also known as Tier I and II forms). This information helps the local government respond in the event of a spill or release of the chemical.

(i.) Emergency Notification and Agriculture

(i.) EPCRA requires businesses that store threshold amounts of chemicals that are subject to OSHA's Hazardous Communication Standard to submit information -- including facility point of contact and the Material Safety Data Sheets (or a list of those chemicals) -- to state and local authorities in order to facilitate emergency planning and response. Annual reporting to state and local authorities is required for all covered facilities that have those chemicals in amounts above threshold. Hazardous chemicals used in routine agricultural operations and fertilizers held for resale by retailers is excluded.

(j.) Toxic Chemical Release Inventory Reporting:

(i.) EPCRA Section 313 requires manufacturing facilities included in SIC codes 20 through 39 to submit an annual toxic chemical release report if they have 10 or more employees and if they manufacture, process, or use specified chemicals in amounts greater than threshold quantities. This report, commonly known as Form R, covers releases and transfers of toxic chemicals to various facilities and environmental media, and allows EPA to compile the national Toxic Release Inventory (TRI) database.