

ARTICLE 2

GENERAL STANDARDS & SPECIFICATIONS

2.1 General Requirements

Upon the adoption of this Ordinance, no structure shall be erected nor use established in conflict with this article nor the provisions of:

- (A.) the district standards & specifications of Article 8, and Article 10 if applicable;
- (B.) the building and lot standards & specifications of Article 9;
- (C.) the landscape standards & specifications of Article 11;
- (D.) the off-street parking standards & specifications of Article 12;
- (E.) the street standards & specifications of Article 13;
- (F.) the sign standards & specifications of Article 17;
- (G.) the flood damage prevention standards & specifications of Article 18;
- (H.) the watershed protection standards & specifications of Article 19; and/or
- (I.) the open space standards & specifications of Article 21.

2.2 Street Frontage Required

Any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street with the following exceptions:

- (A.) Any lot for which a residential use has been legally established prior to the effective date of this Ordinance provided the lot is served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement. A driveway accessible by emergency equipment must be located on said easement. Lots created under these provisions shall be known as “easement-access lots.”
- (B.) Any lot for which a non-residential use has been legally established prior to the effective date of this Ordinance, provided the lot is served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.

- (C.) Up to four (4) residential lots may be served by a private street meeting the standards for public streets set forth in the Town of Spencer Technical Standards & Specifications Manual.
- (D.) A site specific development plan may be considered for approval in the Main Street (MS) District, Traditional Neighborhood Development Overlay (TNDO) District where residential and/or non-residential lots and/or structures front upon a private courtyard, carriageway, mid-block private alleyway with courtyard, or pedestrian way, or urban open space as defined in Article 3, where adequate access by emergency vehicles is maintained by way of a street or *alley* and where the off-street placement of uses does not diminish the orientation of building fronts to the public street.
- (E.) A site-specific development plan may be considered for approval in the Residential Main Street Transition (RMST) District, Main Street (MS) District, Mixed-Use (MU) Districts, Interstate Highway 85 Commercial (C-85) District, US Highway 29 Commercial (C-29) District, Vehicle Service and Repair (VSR) District, Mixed Use (MU) Districts, Civic (CIV) District, or Industrial (IND) District to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites and proposed buildings at the perimeter of the development front upon a public street or are buffered in accordance with this Ordinance. Non-residential subdivisions should be primarily served by public streets and use of private drives should be minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives serving uses in the Residential Main Street Transition (RMST) District, Main Street (MS) District, Mixed-Use (MU) Districts, Interstate Highway 85 Commercial (C-85) District, US Highway 29 Commercial (C-29) District, Vehicle Service and Repair (VSR) District, Mixed Use (MU) Districts, Civic (CIV) District, or Industrial (IND) District shall be constructed in accordance with the standards for streets as found in the Town of Spencer Standards and Specifications Manual and sidewalks shall be provided on at least one side of the private drive.
- (F.) To access a lot or lots in the Residential Main Street Transition (RMST) District, Main Street (MS) District, Mixed-Use (MU) Districts, Interstate Highway 85 Commercial (C-85) District, US Highway 29 Commercial (C-29) District, Vehicle Service and Repair (VSR) District, Mixed Use (MU) Districts, Civic (CIV) District, or Industrial (IND) District, where factors beyond developer control, such as a “limited access” highway along the divided cross-sections, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

2.3 One Principal Building on a Lot; Exceptions

Only one principal building and its customary *accessory building(s)* may be erected on any lot, except that multiple buildings which, taken together, compose a single principal use may be erected on a single lot as permitted by the district regulations and described by building and lot type.

2.4 Lot Size

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size such that the requirements for building and lot type cannot be met, or the standards for spacing of structures and street frontage cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication, or condemnation of narrow strips of land for public utilities and/or street and/or sidewalk right-of-way purposes.

2.5 Lot Width

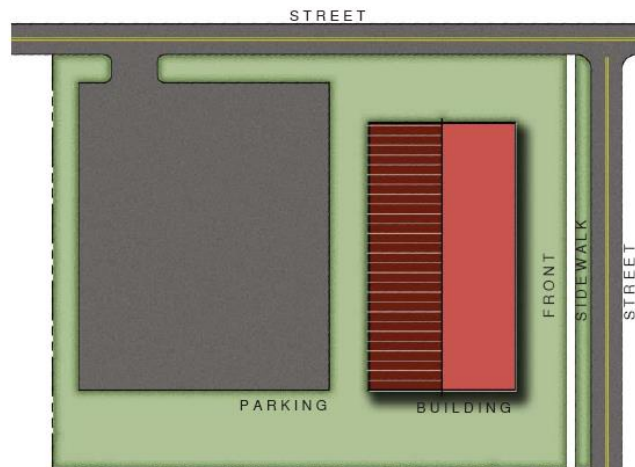
The required width of a lot, as set forth in Article 8 of this Ordinance, shall be measured at the required front setback line.

2.6 Yard Designation

2.6-1 Lots Abutting More Than One Street. On lots that abut more than one street, the building and lot shall generally front upon the more pedestrian oriented street, given the arrangement of existing and proposed streets and drives, and the orientation of buildings on adjoining lots.

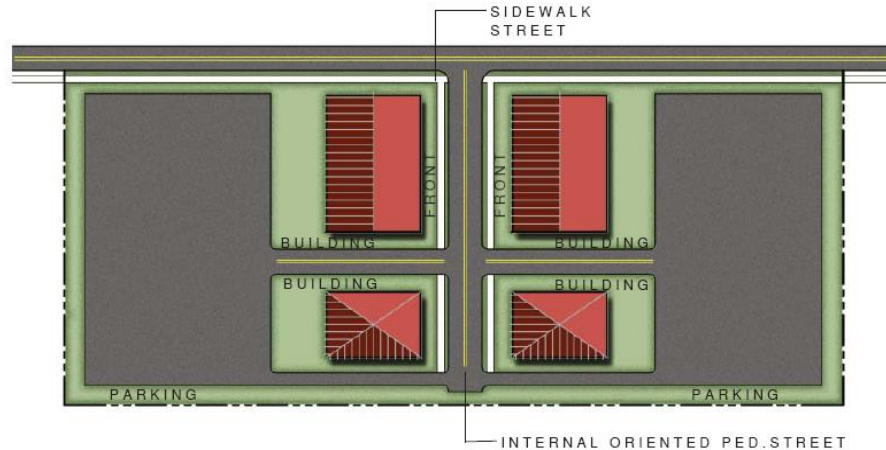
LOTS ABUTTING MORE THAN ONE STREET

One Building Lot



2.6-2 Multiple Buildings on a Lot. Where multiple buildings are permitted on a single platted lot, each building shall generally front upon a pedestrian oriented street, external or internal to the development; side and rear yard designations shall be determined on the basis of building orientation.

Multiple Buildings on a Lot



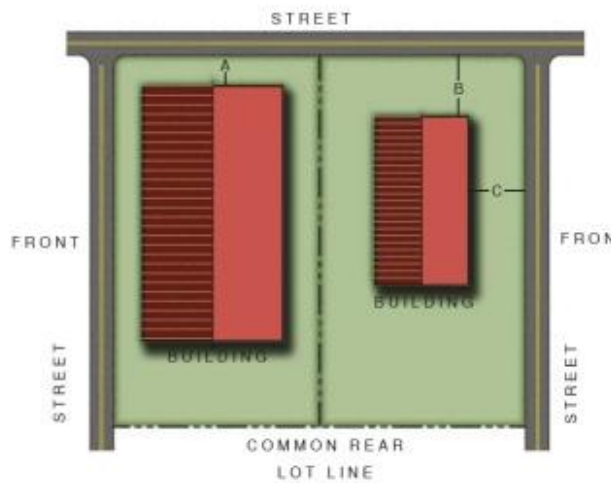
2.6-3 Irregularly Shaped Lots. On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the *Planning, Zoning & Subdivision Administrator*. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing of buildings and orientation to the street(s).

2.7 Yard Dimensions for Corner Lots

2.7-1 Two Corner Lots Abutting at Rear. If two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be at least 50 percent of the greater of the two front setbacks, existing or required.

Two corner lots abutting:

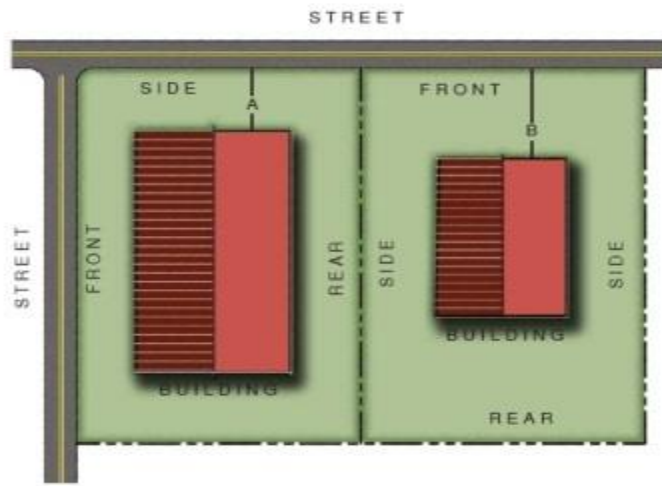
Common side yards on the street (A & B) must be at least 50% of the greater of the two front setbacks (C)



2.7-2 Side Lot Line a Continuation of Adjacent Lot Front Lot Line. In any district, where the side lot line of a corner lot is substantially a continuation of the front lot line of the lot to its rear, the required side yard of the corner lot shall (a) be at least 50 percent of the established front setback of the adjacent lot or (b) establish a transition between existing buildings by stepping toward the street or back from the street a distance equal to the lesser building setback + one-half of the difference between the setbacks of the adjoining buildings.

Side Lot Line a Continuation of Adjacent Front Lot Line:

Side-yard setback of a corner lot (A) shall be at least 50% of established setback of adjacent lot (B)



2.7-3 Buildings on Corner Lots. Buildings on corner lots shall be positioned on the corner as required by the building and lot type standards for the zoning district in which the lot is located.

2.8 Through Lots

If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

2.9 Height Limitation

2.9-1 Building Type Controls. The height of habitable buildings and components is controlled by building type (see Article 9).

2.9-2 Building Components Exceeding Height Limitation. Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (see Article 9). When adjacent to a lot or lots located in a residential district, any part of a non-civic structure that extends

above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground.

- 2.9-3 Exceptions to Height Limitation. The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, solar panels appurtenant to the principle structure, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.
- 2.9-4 Height of Communication Towers. Commercial communication towers, where permitted, may exceed the height limit for structures when the standards for these towers, as set forth in Article 10, are met.

2.10 Structures and Uses Limited in Yards

- 2.10-1 No Principal Structure in Setback. No principal building or structure shall be located within any required setback or yard, forward of the build-to line for a principal structure, within any setback or yard established by a recorded plat, nor in any required buffer or screen.
- 2.10-2 No Accessory Structure in Setback. Except as otherwise provided in this article, no accessory structure shall be located within an established setback or required side yard, nor within five (5) feet of a side or rear lot line. Where permitted, accessory dwellings may be located no closer than four (4) feet to the right-of-way or easement of an abutting mid-block *alley*, nor closer than five (5) feet to an abutting rear property line. Fences, walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in an established setback or required yard, so long as the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance.
- 2.10-3 Fences and walls (walls not associated with buildings). Fences and walls may be located in any yard, established or required, according to the standards of section 2.13-2 of this Ordinance except that fences and/or walls extending within the minimum required front yard shall be of decorative material either concealing or in lieu of wire fencing (strand or fabric) when located within any Single Family Residential (SFR-1, 2, or 3) District, Residential Main Street Transition (RMST) District, Main Street (MS) District, Mixed-Use (MU) districts, or Traditional Neighborhood Development Overlay (TNDO) District.
- 2.10-4 Signs. Signs may be located in an established front setback or a side-yard abutting a public street as permitted by the provisions of Article 17, Sign Regulations.
- 2.10-5 Public Transit Shelters. Public transit shelters may be located in any setback or yard which abuts a street provided the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance.

2.10-6 Off-street Parking. Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in the established front building setback, which shall be landscaped, in any established side yard abutting a street, which shall be landscaped, and in any required buffer or screen. This restriction shall not apply to:

(A.) a driveway which crosses a front yard to provide access from the street to a parking area;

(B.) an individual driveway, including conventional appurtenances thereto such as basketball goals, designed to also serve as a parking area for a detached or duplex dwelling, provided such area is not counted as the minimum required parking;

(C.) plazas associated with civic buildings that have been designed and approved for occasional use as secondary parking areas;

(D.) the frontage along a Town street for which a specific streetscape plan and section have been adopted by the Town Board of Aldermen to include limited parking and access in a series of fronting yards;

(E.) maneuvering areas for loading or delivery activities in the established setbacks and yards of buildings in non-residential zoning districts where the location of buildings that were legally constructed without the provision of these areas preclude them from being located out of established setbacks and yards. Maneuvering areas for parking, loading, or delivery activities are prohibited in the public right-of-way in residential and commercial districts.

2.10-7 Outdoor Storage. Neither outdoor storage of goods and materials or refuse containers shall be located in any established setback or established side yard abutting a street, nor in any required buffer or screen, except for the temporary placement of refuse for scheduled curb side collection.

2.10-8 Architectural Features. Notwithstanding other provisions of this section, architectural features such as cornices, eaves, bays, *awnings*, steps, gutters, and fire escapes may project up to three (3) feet into an established or required yard; additional encroachment is permitted for certain building and lot types established in Article 9.

2.10-9 Subordinate Structures. Subordinate structures attached to single family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to 25% of the rear yard's depth, and may consume up to 20% of the rear yard's area. Attached rear loading garages accessed from rear *alleys* may extend into the required rear yard to within eighteen (18) feet of the *alley* right-of-way or easement; however, side loading garages accessed from rear *alleys* may extend into the required rear yard to within three (3) feet of the *alley* right-of-way or easement, and may consume up to 50% of the rear yard's area. Such extensions may

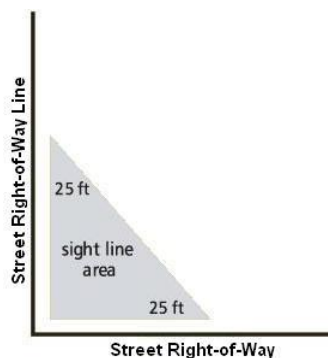
not exceed 50% of the width of the dwelling at the rear building line except in attached residential structures.

2.10-10 Backflow Preventers. Above ground backflow preventers are expressly prohibited in the established front yards of buildings where underground backflow preventers or a location outside of the established front yard is technically feasible according to the standards and requirements of Spencer Public Works Department. Where there is no reasonable alternative to locating an above ground backflow preventer in the established front yard, the structure housing the device shall be covered in a non-reflective material and shall be surrounded, on all sides visible from public streets and abutting properties, by a landscaped opaque screen that matches that architectural style of the primary building.

2.11 Clear Sight Triangle at Street Intersection

2.11-1 Sight Triangle Required. Unless provided otherwise, a clear view at each corner of an intersection shall be maintained by establishing an unobstructed “sight triangle”. The extent of the required sight triangle varies according to the speed limit of streets forming the intersection. For streets signed for greater than 35 MPH, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. For intersecting streets signed for 35 MPH or less, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 25 feet from the point of intersection.

Site Triangle Illustration for Streets Signed for 35 MPH or less:



2.11-2 No Obstruction in Sight Triangle. No planting, structure, sign, fence, wall, manmade berm, or other obstruction to vision shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches and 96 inches above the level of the center of the street intersection.

2.11-3 Modifications to Limitations. The limitations of this section may be modified in the instances noted below, so long as adequate visibility is maintained relative to intended speed limit:

- (A.) existing natural grades;
- (B.) trees trimmed such that no limbs or foliage extend into the area between 30 and 96 inches above the level of the adjacent intersection;
- (C.) fire hydrants, public utility poles, street markers, government signs, electrical junction boxes, and traffic control devices;
- (D.) buildings located in the Main Street (MS) District, or the mixed-use center of the Traditional Neighborhood Overlay (TNDO) District;
- (E.) the approved and intentional use of traffic calming techniques to reduce speed; these include, but are not limited to: a series of hill crests, neck-downs, intersection diverters, and curb bulbs.

2.12 Building Separation

All detached principal structures in all districts shall preserve a minimum building separation of 10 feet, except for Urban Workplace, Shop-front Commercial, and Attached House Lot/Building Types in the Main Street (MS) District, Mixed-Use (MU) Districts, or the mixed-use center of the Traditional Neighborhood Overlay (TNDO) District. All detached accessory structures in all districts shall maintain a minimum building separation of eight (8) feet. All separations are as measured from the closest point(s) of roof overhang.

2.13 Permitted Accessory Uses and Fixtures in All Districts

2.13-1 Accessory uses and Structures. *Accessory uses* and *structures* related and incidental to residential principal structure(s) on the lot shall be setback a minimum of 7.5 feet beyond the front and/or side street facing façade(s) of the conditioned space, and setback a minimum of four (4) feet from interior side and rear lot line(s). If the accessory structure exceeds the height of the principal structure, it must meet the minimum setback for principle structures on interior side and/or rear lot line(s).

2.13-2 Fences and Walls. Fences and walls meeting the requirements of sections 2.10-2 and 2.10-3 are permitted in all districts in accordance with the following specifications:

- (A.) A zoning permit issued by the *Planning, Zoning & Subdivision Administrator* shall be required for all fences and walls. The process for obtaining a zoning permit is set forth in Article 7 of this Ordinance.

- (B.) In a residential, mixed use, or commercial district, a fence or wall in the established front yard, side yard, and rear yard of a building abutting a street shall be a maximum of 5 feet in height, unless otherwise regulated by the building or lot type standards (Article 9) of this Ordinance. Fences along interior side property lines in a residential, mixed use, or commercial district shall not exceed 5 feet in height in front of a line parallel to the front of the principal structure on the lot. Decorative caps or spires that extend above the highest horizontal member of the fence shall not be included in the measurement of height. Chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood or vinyl fence that is equal to or greater in height than the secure fencing and demonstrates effective screening capability. (For example, a 4' high welded wire fence attached to the interior of a decorative split rail fence or board farm fence of equal height or greater would perform to the standards of this section).
- (C.) In a residential or mixed-use district (SFR, RMST, MS, MU, or TNDO), a fence or wall in an established rear yard that abuts an *alley* may not exceed 6 feet in height unless placed 15 or more feet inside property boundary. Within the first 15 feet, fences of chain link or similar material are permitted only if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 3 feet at installation, or if obscured from view by the screening method(s) set out in the paragraph immediately above.
- (D.) In a residential or mixed-use district, a fence or wall in an established rear or side yard that does not abut a street or *alley* may not exceed 8 feet in height, measured as the average over any 100-linear foot run of said fence or wall.
- (E.) In a commercial district, a fence or wall located outside the established front yard, side yard, and rear yard of a building abutting a street may have a height of up to 8 feet, measured as the average over any 100-linear foot run of said fence or wall. Fences of chain link or similar material are permitted in the first 15 feet of an established yard abutting a street or *alley* only if placed on the interior side of a masonry wall or solid wood fence and planted with a semi-opaque vegetative screen between wall or fence and street or *alley*. Beyond the first 15 feet abutting a street or *alley*, such materials may be used if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 2½ feet installed, or if obscured from view by other screening method(s) which perform at the same or a higher level and are approved by the *Planning, Zoning & Subdivision Administrator*.
- (F.) In a commercial or industrial district where the side or rear yard abuts a residential or mixed-use district, chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood fence that is equal to or greater in height than the secure fencing and

demonstrates effective screening capability. Additionally, a semi-opaque vegetative screen shall be required on the exterior side of the fence.

(G.) Fences shall not be erected over easements such as, but not limited to, access easements, utility easements, drainage easements, or any other public easement, without the explicit approval of the Public Works and Planning Departments. If fences or other barriers are allowed to cross such easements, the Town Engineer may require the installer or landowner to install gates or other access points per standards and specifications set by the Town Engineer to ensure access to such easements in the future as necessary and to minimize damage to private property.

2.13-3 Parking Lots. For parking lots as principal or *accessory uses*, the landscape and buffering standards of Article 11 shall control.

2.13-4 On-site Land Clearing and Inert Debris (LCID) Landfill.

(A.) Any on-site LCID landfill must obtain a permit from and comply with the standards of the Town of Spencer, Rowan County and the State of North Carolina per G.S. 130A-301.1.

(B.) Any such landfill must be closed in an approved fashion within six months of completion of construction or within 12 months of cessation of construction, if the development project has not been completed.

(C.) The location of any such landfill must be indicated on the sketch site development plan and the final site development plan. Further, any parcel or lot which contains any part of any such landfill must have notification of the existence and extent of the landfill recorded as part of the deed for the lot or parcel.

(D.) No portion of any such landfill may be located within 50 feet of any property line which constitutes the external boundary of the project. This includes structures, equipment storage, parking areas and fill areas, except that access drives may cross this area.

(E.) A surety guarantee or irrevocable letter of credit in an amount to be determined by the consulting engineer must be provided to ensure that any active landfill area will be closed in an approved fashion. The amount of the guarantee will be based upon the maximum acreage expected to be in use at any given time.

2.13-5 Petroleum Storage. Petroleum storage, accessory to a permitted principal use or building, shall comply with the Fire Prevention Code of the National Board of Fire Underwriters.

2.13-6 Temporary Construction-Related Uses. Temporary buildings and storage of materials, provided the use is in conjunction with the construction of a building on the

same lot or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.

2.13-7 Swimming Pools. Swimming pools located on any site, including single family residential sites, shall be:

(A.) Located in a side or rear yard only;

(B.) Located a minimum of fifteen feet from any property line;

(C.) Completely enclosed by a fence or wall no less than four feet but no more than eight feet, except when a wall is component to the dwelling or accessory structure, in accordance with the provisions of sub-section 2.13-2 Fences and Walls herein. Height shall be measured above grade on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. Fence design shall not be climbable or of a ladder pattern. Fences shall not be located in a way that allows any permanent structure, equipment, or similar object to be used for climbing. The fence shall not have any gaps, opening, indentations, protrusions, or structural components that allow a young child aged six (6) years or less to crawl under, squeeze through, or climb over the fence or adjacent barrier. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device located on the poolside of the gate and be placed so that a young child aged six (6) years or less cannot reach over the top or through any opening or gap and operate the latch.

2.14 Standards for Construction; Developer Responsibility

Where standards and responsibility for infrastructure construction, including but not limited to streets, sidewalks, and landscaping, are specified in this Ordinance or other Ordinances of the Town of Spencer, those standards shall control. Where standards are not specified, construction shall be in conformance with the standards set forth in the Town of Spencer Technical Standards & Specifications Manual.

2.15 Guarantee in Lieu of Construction of Improvements

2.15-1 Provision of Guarantee. In lieu of completion of construction of the required improvements, including but not limited to streets, sidewalks, landscaping, parking, and utilities, prior to issuance of a Certificate of Occupancy and/or Completion, the property owner or developer may provide to the Town a performance guarantee in accordance with section 16.1-9.

2.15-2 Construction Easement. The Town of Spencer, in its sole discretion, may require a temporary construction easement permitting the Town of Spencer or its designee(s) to

access the property for the purpose of constructing/installing the guaranteed improvements. Such an instrument shall be provided with the performance guarantee. The temporary construction easement shall be valid until all guaranteed improvements have been constructed/installed and approved or accepted by the Town. The temporary construction easement shall pass to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the Town and shall be recorded in the office of the Rowan County Register of Deeds with recording fees to be paid by the applicant/landowner.

2.15-3 Failure to Perform. Failure to initiate construction of the improvements within one year of the date the performance guarantee was accepted by the Town of Spencer may result in the Town constructing the improvements, with the cost to be paid from the performance guarantee account. The surety or the financial institution holding the escrow account shall, if requested by the Town pay all or any portion of the performance guarantee to the Town up to the amount needed to complete the improvements based on an estimate by the Town, including associated costs to administer and implement the completion of the guaranteed improvements. The Town at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The Town shall return to the property owner/developer any funds not spent in completing the improvements. Default on a project does not release the developer from responsibility for the completion of the improvements. The Town may release a portion or all of any security posted as the improvements are completed and approved by the Town. In the event that the amount of the performance guarantee on hand is insufficient to pay for the completion of the improvements, the property owner shall pay to the Town of Spencer the total amount of the insufficiency. If the Town is not paid, the amount of the insufficiency shall constitute a lien on the property in favor of the Town. The provisions of this section shall not invalidate any and all requirements for the guaranteed improvements to be covered by warranty or other form of security against material and workmanship deficiencies.

2.16 Regulation of Nuisances

2.16-1 Noise. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent residential or mixed-use district (SFR, RMST, MS, MU, or TNDO), as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district.

- 2.16-2 Fumes and Odors. No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.
- 2.16-3 Vibration. No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line without instruments.

2.17 General Standards for Driveway Permitting

- 2.17-1 Driveway Permit Required. No driveway or other point of access to a street maintained by either the Town of Spencer or the North Carolina Department of Transportation shall be constructed, relocated, or altered unless a driveway permit or other approval is obtained from either the Town of Spencer or the North Carolina Department of Transportation. The applicant shall comply with the standards for driveways established by the North Carolina Department of Transportation. All driveway plans shall be reviewed by the Town of Spencer prior to construction of the driveway. All driveways shall be paved surfaces within the public right-of-way.
- 2.17-2 Projects Composed of Multiple Buildings and Lots. For development projects composed of multiple buildings and lots, access to the predevelopment existing public street system shall be determined by the location of proposed intersecting streets. No parcel of land which is a functional part of the overall development, even though it may be removed by the developer from the rest of the project area by subdivision or by metes and bounds description, shall be permitted to have driveway access to the public streets bounding the project area without first having secured the approval in sub-section 2.17-1 above.
- 2.17-3 Access to Subdivision Lots. In a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each Zoning Compliance Permit is issued.
- 2.17-4 Location and Design of Access. Determination of the location and design of access to the public street system shall be made by the *Planning, Zoning & Subdivision Administrator, Town Engineer* and other regulatory and professional reviewers based on a contextual examination of the site, surrounding development, potential traffic generated on the site, current and future surface transportation system needs, special polices that might exist for the corridor being accessed, and/or state of the practice principles for access management as promulgated by the Institute of Transportation Engineers and the Transportation Research Board.

2.18 Special Requirements for Lots along Thoroughfares

2.18-1 Authorization. Pursuant to North Carolina General Statutes 160A-306 and 153A-326 (which state that cities and counties shall have authority to (1) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic load, and other characteristics relevant to the achievement of the purposes of this section, and (2) establish by Ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be set back from the right-of-way line or the center line of an existing or proposed street) the following requirements shall apply.

2.18-2 Minimum Setbacks along Thoroughfares. The build-to or set back line for any lot which abuts a thoroughfare classified on the adopted transportation plan for Division 12 shall be measured from the right-of-way line outlined in the table below (Table 2.18-2) if existing right-of-way is of lesser width. The Proposed Right-Of-Way Line established for each classification of thoroughfare is as follows:

Table 2.18-2

<u>Thoroughfare Classification</u>	Distance from Thoroughfare Centerline to " <u>Proposed Right-of-Way Line</u> "
Freeway/Expressway	125 feet (Class I)
Limited Access Arterial	60 feet (Class II)
Commercial Arterial	60 feet (Class III)
Major Arterial (unless within MS District)	37.5 feet (Class III)
Minor Arterial (All other S.R. numbered roads maintained by the NCDOT)	30 feet (Class IV)

2.18-3 Transitional Setback for Lots along Thoroughfares. A transitional setback or yard shall be established for each lot which abuts a thoroughfare that has an existing right-of-way which is not as wide as the Proposed Right-of-Way Line established for that thoroughfare. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for those permanent uses which are prohibited in the established setbacks or yards. At the time that the Proposed Right-of-Way Line is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses from the transitional setback or yard that are not otherwise permitted in the yard by the district regulations. The property owner shall have one

(1) year from the date of right-of-way acquisition to remove any such uses.

2.18-4 Exceptions. The standards herein prescribing setback from the proposed right-of-way line will not apply to any development for which a preliminary subdivision plan or a conditional use site plan has been approved prior to the effective date of regulations requiring setback from proposed right-of-way lines along thoroughfares. Nor shall they apply to structures in the Main Street (MS) District, Mixed-Use (MU), or mixed-use center in a TNDO Districts.

2.18-5 Right to Appeal. An affected property owner shall have the right to appeal transitional yard or setback requirements to the *Board of Adjustment* for variance or modification as they apply to a particular piece of property. The *Board of Adjustment* may vary or modify these requirements upon a showing that:

(A.) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirements, and

(B.) The property will not be put to reasonable use unless relief is granted, and

(C.) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the *Board of Adjustment* may impose reasonable and appropriate conditions and safeguards to protect the interests of neighboring properties. The *Board of Adjustment's* decision shall be subject to review by the superior court by proceedings in the nature of certiorari in accordance with G.S. 160D-1402.

2.19 Sidewalks for New Development and Expansion/Improvement of Existing Development

2.19-1 Sidewalks Required. Sidewalks shall be required along new and existing streets, in accordance with the provisions of Sub-section 13.2-3, fronting the following new development and expansions of and improvements to existing development.

(A.) All new commercial development.

(B.) Expansions to an existing commercial development or use where the gross floor area of the expansion is equal to or greater than 50% of the gross floor area of the pre-expansion development or use.

(C.) Improvements to an existing commercial development or use when the cost of the improvement is equal to or greater than 50% of the value of the existing development (building) or use as determined by the Rowan County Tax Office.

(D.) All residential development with two (2) or more residential units, except in accordance with Sub-section 13.2-3.

(E.) One single family home on a single lot when the lot being developed is adjacent to a lot on which an existing sidewalk is located and the construction of a sidewalk on the lot being developed would be a logical extension of the pedestrian network.

2.19-2 Sidewalks Along New Streets. Sidewalks shall be required along both sides of new streets, except streets in the Agriculture (AG) District, where sidewalks are not required on the new street.

2.19-3 Sidewalks Along Alleys and Lanes. Sidewalks shall not be required along *alleys* and/or *lanes*.

2.19-4 Standards for Sidewalks. Sidewalks shall comply with the design and construction standards set forth in the Town of Spencer Technical Standards & Specifications Manual.

2.20 Manufactured Home Parks Prohibited

2.20-1 Prohibition and Exceptions

(A.) The development and/or subdivision of land for the purpose of Manufactured Home Parks/Courts is prohibited in all primary general use districts; including the placement, erection, storage and/or construction of Manufactured Homes in existing non-conforming Manufactured Home Parks. Exception is taken to this regulation where the Manufactured Home Overlay (MHO) District standards and specifications supplement the primary general use district standards and specifications. Manufactured Home Overlay (MHO) standards and specifications are established in Sections 8.5-5 and 10.2-10 of this Ordinance.

(B.) All Non-Conforming Manufactured Home Parks not found in compliance with the requirements of Sections 8.5-5 and 10.2-10 of this Ordinance shall either cease and desist or meet full compliance standards no later than eight (8) years following either the effective date of this Ordinance or its application to newly annexed property, whichever is the latter. Exception is taken where the Non-Conforming Manufactured Home Park satisfies the requirements of section 2.20-2 below.

2.20-2 Standards and Specifications for Non-Conforming Manufactured Home Parks seeking Exception to Section 2.20-1(B) by Issuance of a Continuation Permit

(A.) All Manufactured Home Parks not in conformance with the standards and specifications of Sections 8.5-5 and 10.2-10 of this Ordinance may be reviewed for exception to the conformance requirement of Section 2.20-1(B) upon written request to the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator* shall, upon finding that each and every requirement for exception has been met, issue a special continuation permit in writing to the owner/applicant of a Non-Conforming Manufactured Home Park. Request for review

and exception must be received no later than eighteen (18) months following the effective date of this Ordinance or its application to newly annexed property, whichever is the latter. The standards and specifications for exception set forth in sub-section (c) below are representative of reasonable standards for the continuation of a Non-Conforming Manufactured Home Park assuming that the owner/applicant wishes the continuation of said Manufactured Home Park.

(B.) The expansion, modification and/or rearrangement of excepted Manufactured Home Parks is prohibited unless full compliance with Sections 8.5-5 and 10.2-10 is accomplished in accordance with G.S. 160D-909.

(C.) The minimum site criteria shall be as follows:

(1.) Minimum site area (in acres)	1.5
(2.) Minimum number of Manufactured Home Spaces per park	6
(3.) Maximum number of Manufactured Home spaces per acre	12
(4.) Maximum number of driveways connecting to public streets	0
(5.) Minimum area per Manufactured Home space (square feet)	3500
(6.) Minimum Manufactured Home space width (linear feet)	38
(7.) Minimum separation between each unit (linear feet)	28
(8.) Maximum number of Manufactured Homes per space	1
(9.) Minimum number of parking spaces per Manufactured Home space	2
(10.) Minimum area of landing/patio per Manufactured Home space (sq. ft.)	32
(11.) Minimum width of paved street (linear feet)	16
(12.) Minimum percentage of paved streets	100
(13.) Minimum percentage of Manufactured Home spaces with approved water supply and sewage disposal facilities	100
(14.) Maximum number of Manufactured Home spaces with vehicular access from one-way private streets	4
(15.) Minimum percentage Manufactured Home spaces with garbage collection/disposal services provided by owner/operator	100
(16.) Identification Sign conforming to Article 17 of this Ordinance	Yes
(17.) Vehicle speed and traffic safety control devices/signs	Yes

(D.) Owners/operators of Non-Conforming Manufactured Home Parks requesting exception shall provide a detailed sketch of the site showing exact dimensions, area and layout information required herein above.

2.21 Provision of Potable Water Supply and Wastewater Disposal Infrastructure

All new development shall be connected to an approved potable water supply system and approved wastewater collection and/or treatment system in accordance with applicable

utility connection policies. Extensions to serve development shall be in accordance with the Policy for Managing Utility Allocations and Extensions.

Every principal use and every lot within a subdivision not served by a public wastewater collection, transport and treatment system shall be served by an accepted wastewater system, in accordance with NCGS 130A-335, that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations. Definitions of terms appearing in this Development Ordinance including: 'maintenance', 'repair', 'septic tank system', 'sewage', 'wastewater', and 'wastewater system' shall be determined in accordance with North Carolina G.S. 130A-334.

Plats, as defined by G.S. 130A-334, for new lots and/or parcels shall be submitted for review, whether subject to subdivision approval or not. Each plat shall identify the location of an accepted wastewater system and if an on-site wastewater system, then identify the location of the repair field and/or area. Plats shall identify off-site wastewater system locations and show easements where any portion of said off-site wastewater system and/or utility line providing service to the lot extends over any portion of a lot other than the lot for which said off-site wastewater system and/or utility serves. Plats representing locations of on-site and/or off-site wastewater system, utility line and requisite repair areas shall be submitted with all Exempt, Minor Subdivision and Major Subdivision Preliminary Plats and appear on all Final Plats approved for recording in the Rowan County Register of Deeds.

2.22 Murals and Works of Art in Outdoor Public View

Murals and Works of Art of any size displayed outdoors in public view shall be subject to the following standards and specifications:

- 1) No murals may be painted on a wall facing Main Street within the MS and/or R/MST District(s);
- 2) No murals may be painted on any previously unpainted wall;
- 3) Murals must be maintained in good repair by the owner of the building on which they are painted;
- 4) Murals within the Downtown Historic District must be approved by the Historic Preservation Commission;
- 5) Any mural in the MS and/or R/MST District that is not within the Downtown Historic District, must be approved by the Town Board of Aldermen, in consultation with the Town's Appearance Committee, or such other committee as may be designated by the Town Board of Aldermen from time to time.
- 6) Sculptures shall not be placed or erected within a public right-of-way, including public sidewalk, without first obtaining an encroachment permit from the Town on

Town maintained right-of-way, and if located within the right-of-way of a public street, road and/or highway route maintained by the NCDOT, then without first obtaining encroachment permits from both the Town and the NCDOT. The encroachment permit shall specify the duration of the encroachment in the form of a specific date of expiration. In the absence of a specific expiration date, the encroachment shall be deemed unauthorized and in violation of this Ordinance.

2.23 Short-term Rentals Limited

Short-term rental of rooms in residential properties shall be subject to the following designations, limitations, standards, and specifications:

- 1) Properties providing the short-term rental of rooms within residential properties shall be designated as a “Tourist/temporary residence” in Spencer.
- 2) In addition to the provisions of sub-section 2.23-4 appearing below, a Tourist/temporary residence located within *Single-Family Residential (SFR)* and *Residential Main Street Transitional (RMST)* Districts is subject to the following additional limitation(s): No signs or demarcations promoting or identifying short-term rentals visible from the street or adjacent properties are permitted within the SFR or RMST Districts.
- 3) Signage in all districts other than those listed in 2.23-2 above shall comply with the provisions of Article 17 pertaining to *Non-residential Pole* type permanent signs requiring a permit.
- 4) Properties and Tourist/temporary residences not meeting the provisions of this section shall be deemed to be either in violation of this Ordinance, or functionally operating as either a “Bed & Breakfast” or a “Hotel or Motel” and subject to the provisions applicable to such uses as contained in this Ordinance.
- 5) Tourist/temporary residence.
 - a. *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
 - i. *Residential property.* An apartment, studio, condominium, single family home, townhouse, cottage or other property devoted to residential use or occupancy by one or more persons for a definite or indefinite period.
 - ii. *Tourist/temporary residence.* A residential property or any portion thereof, being rented by the owner of said residential property or their agents for vacation, leisure or recreation purposes for periods of fewer than 30 days.
 - b. *Tourist/temporary residences* are permitted in *residential property* in all Districts.
 - c. Notwithstanding any authorized agency, the owner of the tourist/temporary residence shall be responsible for complying with the provisions of this chapter such that the failure of an authorized agent to comply therewith shall be deemed to constitute non-compliance on the part of the owner of the tourist/temporary residence.

- d. *Permit conditions.* All permits issued under this chapter are expressly subject to the following conditions:
- i. Overnight occupancy shall not exceed two occupants per bedroom plus two additional occupants. The number of "bedrooms" used in calculating occupancy limits shall be taken from the Rowan County Revenue Department property tax records. For example: a two-bedroom tourist/temporary residence would have an occupancy limit of six (2×2 bedrooms = 4 + 2 additional = 6 total). Rentals of a tourist/temporary residence within the SFR-1 and SFR-2 District shall be required to have a two-night minimum stay per rental. Tourist/temporary residence rentals not located within the SFR-1 and SFR-2 District shall have no minimum stay requirements.
 - ii. The permitted use shall not change the residential character of the dwelling or constitute or create a public nuisance as defined within the Code of Ordinances.
 - iii. All parking shall occur in a garage, driveway, or designated parking space. There should be no more than two cars per bedroom on premise at any time. No on street parking is allowed.
 - iv. Trash containers shall be maintained in the side or rear yard and shall be screened from street view. The owner and their agents shall ensure that trash pickup occurs at least once a week at the residence and as otherwise needed for additional trash.
 - v. If the tourist/temporary residence is served by a septic system, a statement attesting to the adequacy of the system to accommodate the number of bedrooms intended for occupancy pursuant to these regulations shall be obtained. This requirement shall be satisfied by providing a copy of the applicable septic permit issued by the Rowan County Health Department for the subject property. In the event a septic permit exists, the number of bedrooms listed on the Rowan County Health Department permit shall determine the occupancy limits established by paragraph (i) above. If no such permit exists, the applicant shall provide a statement from a qualified licensed professional attesting to the adequacy of the system to accommodate the maximum number of guests permissible under these regulations or provide evidence that the septic system has been pumped out within one year prior to the date of application.
 - vi. Owners and their agents shall make all reasonable efforts to minimize outside noise after 10 p.m. Further, all occupants shall comply with Section 30-565 Noise of the Town of Spencer, Code of Ordinances.
 - vii. Owners and their agents shall expressly provide in their rental agreements that the residence shall not be used by occupants to engage in commercial activities including, without limitation, wedding receptions, and large parties.
 - viii. Owners and their agents shall expressly provide in their rental agreements that occupants shall not violate federal, state, or local laws, ordinances, rules, or regulations; engage in disorderly or illegal conduct; engage in activities or conduct creating or resulting in unreasonable noise,

disturbances, and public nuisances; allow an unreasonable amount of garbage, refuse, and rubbish to accumulate on the property; illegally park vehicles in conjunction with their use of the tourist/temporary residence; and overcrowd the residence premises.

- ix. Owners and their agents shall take reasonable steps to ensure the occupants' compliance with the express provisions required under subsections "a" - "d" above. As used herein, the term "reasonable steps" shall be construed to include, without limitation, the following:
 - 1. promptly contacting occupants when notified of violations of the permit conditions and requesting the occupants to cease and desist from such violations;
 - 2. contacting law enforcement when a reasonable person would deem the assistance of law enforcement to be necessary under conditions then prevailing on the premises; and
 - 3. when applicable and reasonable, commencing expedited eviction procedures against the occupants as provided for in G.S. Ch. 42A, art. 4, Vacation Rental Act.
- e. Owners and their agents shall expressly provide in the rental agreements that a material breach of the express provisions required under these sections shall result in a termination of the rental agreement.