

DRAFT

LOCAL LAW NO. 1 OF THE YEAR 2021

**A LOCAL LAW AMENDING THE CODE OF THE VILLAGE OF SPENCER TO
REGULATE SITE PLANS IN THE VILLAGE OF SPENCER**

Be it enacted by the Village Board of the Village of Spencer as follows:

Section 1. Amendment to Code. A new Article of the Code of the Village of Spencer (the “Code”) is hereby inserted into the Code thereby rescinding all prior local site plan review laws that may have been established in the Code under other Chapters and/or Articles to regulate Site Plans in the Village of Spencer.

Section 2. Addition to Code

The Chapter (entitled “Planning Board”) of the Code of the Village of Spencer hereby creates a new Article (to be entitled “Village of Spencer Site Plan Review Law”) reading in its entirety as follows:

SITE PLAN REVIEW LAW

ARTICLE I

Introductory Provisions

Enactment.

The Village Board of the Village of Spencer, Tioga County, New York, does hereby enact the Village of Spencer Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law.

Title

This local law shall be known as the “Village of Spencer Site Plan Review Law. The Village of Spencer is hereinafter referred to as the “Village.”

Intent and Purpose.

- A. Through site plan review, it is the intent of this local law to promote and protect the health, safety, general welfare, and environmental quality of the Village of Spencer. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Village and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Village and the general welfare of its inhabitants.
- B. It is further the intent of this local law to ensure the optimum overall conservation, protection, development, preservation, and use of the natural

and human-related resources of the Village, by regulating land use activity within the Village through review and approval of site plans.

Authorization of the Planning Board to Review Site Plans.

The Planning Board of the Village of Spencer is hereby authorized to review and approve or disapprove site plans for land uses within the Village as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law. The Planning Board of the Village of Spencer will be referred to hereinafter as the “Planning Board.”

ARTICLE II

Applicability and Definitions

Applicability of Review Requirements.

- A. Before a building permit or certificate of occupancy can be issued for any of the activities for which the site plan approval is required, a site plan must be approved by the Planning Board in accordance with these and other applicable provisions.
- B. An applicant may, at his or her discretion, apply for a preliminary site plan approval. Further if the Planning Board determines that an application for the final site plan approval is insufficient for an affirmative decision, the Board may grant preliminary site plan approval with such conditions and restrictions as the Planning Board deems necessary or appropriate as predicates to granting final site plan approval.
- C. All new or changes of land use activities within the Village shall require site plan review and approval before being undertaken, **except** the following:
 1. Construction or alteration of a one- or two-family dwelling and ordinary accessory structures, and related land use activities, on an individual parcel. See “Words and Terms Defined”.
 2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
 3. Ordinary repair or maintenance of interior alterations to existing structures or uses.
 4. Farm Operations in an agriculture district created pursuant to Article 25-AA of the NYS Agriculture and Markets Law, unless such operation involves a concentrated animal feeding operation (CAFO) as defined in “Words and Terms Defined”.
 5. Non-Commercial General Farming, as defined in “Words and Terms Defined”.
 6. Garage and lawn sales not exceeding three (3) days, on a parcel owned or leased for residential purposes by the operator of such sale. If such sales take

place more often than three days per calendar year, a site plan will be required.

7. Construction of creation of mobile home parks that are subject to review pursuant to the Village Mobile Homes and Mobile Home Parks Code provisions.

- D. Any person, corporation, limited liability company or other type of entity uncertain of the applicability of this local law to a given land use activity may apply in writing to the Planning Board for a written jurisdictional determination.

Waivers and Special Circumstances.

The purpose of this Section is to set forth those conditions and circumstances under which the requirements of this local law may be modified or waived by the Planning Board. Where the Planning Board finds that, due to the special circumstances of a particular case, a less intensive review of certain requirements or procedures is justified, a waiver may be granted. In all cases, no waiver shall be granted unless the Planning Board finds and records in its minutes that:

- i) granting the waiver would be keeping with intent and spirit of this Local Law and is in the best interests of the community;
- ii) there is no known, potential, or anticipated material adverse effect upon the character, appearance, or welfare of any adjacent neighborhood or the environment
- iii) there are special circumstances involved in the particular case;
- iv) denying the waiver would result in undue hardship, provided that such hardship has not been self-imposed; and
- v) the waiver, if granted would be the minimum necessary degree of variation from the requirements of this local law.

The Village Board of Trustees must be notified in writing of the waiver to include the Planning Board's justification within seven (7) days of the Planning Board's decision.

Effect on Existing Uses.

This local law does not apply to uses and structure which are lawfully in existence as of date this local law becomes effective. Any use which would otherwise be subject to this local law that has been discontinued for a period of one (1) year or more shall be subject to review pursuant to the terms of this local law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been lawfully commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

Relationship of This Local Law to Other Laws and Regulations.

This local law in no way affects the provisions or requirements of any other federal, state or local laws or regulations. Where this local law is in conflict with any other such laws or regulations, the more restrictive shall apply.

Words And Terms Defined.

For the purposes of this local law, the language set forth herein shall be interpreted by reference to the words and meanings as defined below. Any terms used in this local law which is not defined below shall carry its customary meaning unless the text otherwise dictates. For the purposes of the local law, the singular includes the plural; the plural includes the singular; the masculine includes all genders; the present tense includes the future. The words “shall” and “will” mean the action is mandatory; the words “may” and “should” mean the action is elective. “Building” or “structure” includes any part thereof. The word “person” includes an individual, person, firm, corporation, co-partnership, or any other agency of voluntary action.

Family – A person or persons related to each other by blood, marriage or adoption, or domestic partners, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit.

Home Occupation – Accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the dwelling use for living purposes and does not change the character thereof or have any exterior evidence of such use and which conforms to the following additional conditions:

1. The home occupation shall meet all requirements for habitable space and shall not exceed 15 percent of the floor area of the primary structure.
2. No more than one person not residing in the dwelling unit may be employed in the home occupation.
3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.
4. The home occupation shall not involve any operation considered to be hazardous.

Land Use Activity – Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or structure. “Land use activity” shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansion of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

One-Family Dwelling – A complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

Two-Family Dwelling – Two complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common roof, wall, or ceiling and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

Planning Board – The Planning Board of the Village of Spencer.

Site Plan – A rendering, drawing or sketch prepared to specifications and containing necessary elements as set forth in this local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

Structure – Any object constructed, installed or placed on land to facilitate land use and development of land, such as buildings, sheds, signs, tanks, paving, decks, docks and any fixture, additions and alterations thereto.

Structure, accessory – Any structure designed to accommodate any accessory use but detached from the principal structure.

Commercial Farming – A commercial farm is defined as a farm with gross receipts exceeding \$10,000 annually. This may include the construction of structures such as barns or silos necessary for the production and storage of agricultural products and equipment.

Non-Commercial General Farming – The raising of agricultural and horticultural products, such as crops, livestock, poultry, and dairy goods for domestic consumption and limited sale to others (under \$10,000 annually.) This may include the construction of structures such as barns or silos necessary for the production and storage of agricultural products and equipment.

Concentrated Animal Feeding Operation (CAFO) – A commercial operation that involves a lot or building or combination of contiguous lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area where manure may accumulate or where the concentration of animals is such that vegetative cover cannot be maintained within the enclosure during the normal growing season and which generates a sufficiently large amount of waste as to require a State Pollutant Discharge Elimination Permit issued pursuant to the Environmental Conservation Law, or a National Pollutant Discharge Elimination Permit issued pursuant to the Federal Water Pollution Control Act.

ARTICLE III

Site Plan Review

Procedures – Generally.

Prior to undertaking any new land use activity except as specifically excepted in this local law, a site plan approval by the Planning Board is required. The Village's Code Enforcement Officer will make an initial recommendation about whether or not the proposed use is subject to Site Plan Review and will consult with the Planning Board at the next scheduled meeting. Applicants for site plan approval should follow the recommended procedures related to the Sketch Plan Conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law. No building permit nor any certificate of occupancy shall be issued for any structure that is

subject to the provisions of this law unless final site plan approval for same has been granted by the Planning Board.

Sketch Plan.

All required documents and drawings shall be submitted to the Planning Board in electronic format.

- A. The applicant may request a Sketch Plan Conference, such request to be made in writing to the Planning Board Chair by the applicant at least fourteen (14) days prior to a regularly scheduled meeting of the Planning Board. If the Chair determines that there is insufficient time at the meeting to hold a Sketch Plan Conference, the Chair shall arrange with the Applicant to hold a Sketch Plan Conference at a mutually agreed upon time within 45 days of receiving the request for a conference. This period may be extended upon agreement of both parties.
- B. A Sketch Plan Conference shall be held between the Planning Board, Village Code Enforcement Officer, and applicant, prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Board of the intended proposal prior to the preparation of a detailed site plan, and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns, and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide copies (one for each Planning Board member) of the following to the Planning Board Chair at least fourteen (14) days prior to a regularly scheduled meeting of the Planning Board.
 1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access, proposed signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and such other information deemed necessary by the Code Enforcement Officer.
 2. An area map showing the general location of the parcel under consideration for site plan review, and all properties, subdivisions, street, rights of way, easements and other pertinent features within 500 (five hundred) feet of the boundaries of the parcel; and
 3. A topographic or contour map of adequate scale and detail to show site topography and drainage.
- C.

Applicant Requirements.

Following the Sketch Plan Conference, an application for site plan approval shall be made in writing to the Chair of the Planning Board and shall be accompanied by copies, for each Planning Board Member, of the information contained on the following

checklist. Changes to this checklist (additions and/or deletions) may be made as determined necessary by the Planning Board at said Sketch Plan Conference.

Site Plan Checklist:

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
2. North arrow, scale and date;
3. Owner, tax identification number, and boundaries of the property plotted to scale, and names of owners of adjoining parcels,
4. Existing buildings, structures and streets on site and within 500 (five hundred) feet of the boundaries of the site;
5. Location, width and purpose of all existing and proposed easements, set-backs, rights-of-way, reservations and areas dedicated to public use within and adjoining the property.
6. Description of all existing and proposed deed restrictions or covenants applying to the property.
7. Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock soil characteristics, and watercourses.
8. Location, design, type of construction, proposed use and exterior dimensions (including height) of all buildings and structures;
9. Location, design and type of construction of all parking and truck loading areas, showing access and egress including all driveways;
10. Provisions for pedestrian access, sidewalks and bike paths if any;
11. Location of outdoor storage, if any;
12. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
13. Description of the method of sewage disposal and location, design and construction materials of such facilities;
14. Description of the method of securing water and location, design and construction materials of such facilities.
15. Description of the method for snow removal and location of snow storage.
16. Location of fire and other emergency zones, including the location of fire hydrants or other water source(s) for emergencies;
17. Location, design, and construction materials of all energy distribution and storage facilities, including electrical, gas, wind and solar energy.
18. Location, size, design, lighting, hours of operation, and type of construction of all proposed signs;
19. Description of adjacent land uses;
20. Location and proposed development of all buffer areas to protect adjacent land use, including existing vegetation covers.
21. Location, size and design of outdoor lighting facilities;
22. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
23. General landscaping plan and planting schedule;

24. An estimated project construction schedule;
25. Record of application for and status of all necessary permits from other government bodies;
26. Identification of any permits from other governmental bodies required for the project's execution;
27. An Agricultural Data Statement (ADS) must be submitted if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation within an agricultural district;
28. Environmental Assessment form, if required: For projects classified as Type 1 under the State Environmental Quality Review Act (SEQRA), a Full Environmental Assessment Form (FEAF) is required. For projects classified as unlisted under SEQRA, a Short Environmental Assessment Form (SEAF) is required. After review of these documents the Planning Board may require additional information;
29. A DEC Storm Water Pollution Prevention Plan (SWPPP) or DEC storm water threshold form if required. All projects that meet DEC Storm Water thresholds must comply with current DEC regulations;
30. Businesses are required to have all (customer and business) vehicles on gravel or paved lots.
31. Commercial businesses shall have ample parking for the anticipated number of customers.
32. Lighting around business should be adequate for security and path illumination. Lighting should be directed downward to minimize loss into the environment and prevent glare and minimize the effect on neighbors.
33. Commercial property will be responsible for the access or connection to existing roads, water, sewer, etc. and shall be responsible for maintaining those connections;
34. Applications should include the number of employees, hours of operation and additional number of vehicle trips per day.
35. Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

Required Fee.

An application for Site Plan Review shall be accompanied by a nonrefundable fee determined by the Spencer Village Board and paid to the Village Clerk. See the Village Clerk for an application form and fee schedule.

Security for Performance.

- A. The Planning Board may condition site plan approval upon the Applicant's submission to the Village Clerk of a cash deposit, performance bond, or irrevocable letter of credit, in an amount determined by the Planning Board after consultation with the Village Code Enforcement Officer, which amount shall be sufficient to ensure that all improvements and landscaping, as shown on the approved site plan, shall be completed and to ensure against damage to the infrastructure, including public and private roads and drainage structure.

- B. If public improvements are required, the Planning Board may require a separate cash deposit, performance bond, or irrevocable letter of credit, in an amount determined by the Planning Board after recommendation of a licensed engineer for which amount shall be sufficient to ensure that all required public improvements shall be completed.
- C. Any bond required to be posted in connection with a site plan approval shall include the language set forth in the Village Code, if any.
- D. No performance bond, or irrevocable letter of credit shall be accepted by the Village Clerk unless approved as to the form and substance by the Village Attorney.

Retention of Expert Assistance and Reimbursement by Applicant.

- A. The Planning Board may retain any consultants and/or experts, (including, but not limited to, an engineer, attorney or other consultant and/or expert) deemed reasonably necessary to assist the Board in reviewing the Site Plan at the expense of the Applicant.
- B. If such assistance is deemed necessary, the Planning Board Chair shall so inform the Applicant in writing. The Planning Board will give the Applicant an estimate of the reasonable cost(s) of the consultants and/or experts and an explanation of the need for such assistance. The Applicant will agree in advance to these cost(s) to be incurred by the Village to use to pay the consultants and/or experts as described in “A” above. The total amount of the reasonable cost(s) for consultants and/or experts may vary with the scope and complexity of the project, to enable the Planning Board, with the assistance of its consultants and/or experts, to complete the necessary review and analysis of the proposal.
- C. In addition, the Planning Board, in considering the reasonably estimated costs, as described in “B” above, may require an up-front escrow payment from the Applicant of up to \$2000 be paid in advance to the Village before the review of the application by any such consultants and/or experts. Applicant shall be notified of withdrawals from the escrow and shall be provided an account of all expenses incurred by such consultants and/or experts.
- D. No building permit or certificate of occupancy shall be issued for any structure that is subject to review pursuant to these site plan review provisions unless and until all outstanding review fees and costs have been paid by the Applicant to the Village.

ARTICLE IV

REVIEW STANDARDS

General Standards and Considerations.

The Planning Board’s review of the site plan shall include, as appropriate, but is not limited to, the following general considerations;

- A. Compatibility of the proposed use with the Village of Spencer Comprehensive Plan
- B. Location, arrangement, size, design and general site compatibility of buildings, structures, lighting, and signs.
- C. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- D. Location, arrangement, appearance, impact and sufficiency of: off-street parking and loading, lighting and signs.
- E. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience, and sidewalks and bicycle paths, if any.
- F. Adequacy of storm water and drainage facilities.
- G. Adequacy of water supply and sewage disposal facilities.
- H. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise and/or light buffer between the applicant's lands and adjoining lands, including retention of existing vegetation, and fencing.
- I. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants or other water source for emergencies.
- J. Special attention to the adequacy and impact of structures, roadways and landscaping in areas susceptible to ponding, flooding and/or erosion.
- K. Special attention to the procedures and facilities, and handling, storing, disposing and transporting of hazardous and/or toxic materials, to ensure such measures are more than adequate to protect surface and ground water resources, air quality and health and safety of Village residents.
- L. Impact upon wetlands and watercourses located on, near, within sight of, or downhill from the applicant's lands, including water quality, visual, aesthetic and environmental impacts.
- M. Overall impact on the neighborhood including compatibility of design considerations, noise, light, and aesthetics.
- N. Overall impact on maintaining safe and adequate visibility for motorists.
- O. Overall impact on surface and ground water quality resources, air quality, and health and safety of Village residents.
- P. Overall impact on Village water supply and sewage disposal facilities.
- Q. Overall impact on scenic, aesthetic, recreational, wildlife, historic, ecological and natural resources of the Village.
- R. To maintain Village rural atmosphere and uniqueness, a minimum ten (10) foot green buffer is required for all land adjoining highways and roads adjoining or in the site to accommodate trees and/or other plantings.

Specific Standards and Considerations.

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following specific standards and considerations:

- A. All construction on any lot located in a flood zone or on a streambank must comply with the Villages flood damage prevention regulations and shall be carried out in such manner as to minimize flood damage, to minimize interference with natural course of such waterway, to avoid erosion of the streambank, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the streambank.
- B. Any storage of petroleum products shall be in compliance with all applicable state and federal regulations.
- C. All signs shall be on-premises; all materials shall be clearly marked.
- D. All site plan projects shall be in compliance with all applicable state laws, regulations, and standards.
- E. Reservation of parkland on site plans containing residential units – if the proposed project includes dwelling units, the Planning Board may, in accordance with the provisions and requirements of NYS Village Law or any similar or successor law, require a park or parks to be shown on the site plan, or, to the extent permitted by NYS Village Law or any other similar law or successor law as relates to monies in lieu of parkland.
- F. Public Open Spaces – Consideration shall be given to the allocation of areas suitably located for community purposes, as indicated on the Village’s Comprehensive Plan, and provided for by Village Code, if applicable.

ARTICLE V

Public Hearing and Planning Board Decision

Public Hearing

The Planning Board shall conduct a public hearing on the Site Plan within 62 days of the receipt of a completed application for Site Plan Review. After the public hearing date is set by the Planning Board, the Applicant shall mail a letter to all property owners located within 300 (three hundred) feet of the perimeter boundary of the actual footprint of, including the access road, the proposed Site Plan project, giving information about the time, date, place and purpose of the public hearing, and shall provide the Planning Board with proof of such mailing. Such letters shall be mailed no later than two (2) weeks prior to the public hearing.

The public hearing shall be advertised in the Village’s official newspaper at least five (5) working days before the public hearing.

When required by General Municipal Law 239-l & 239-m, the Planning Board shall submit notice of the public hearing along with a complete description of the application to the Tioga County Planning Board for review. The time period in which the Planning Board must conduct the public hearing can be extended by mutual consent of the Applicant and the Planning Board. If the Tioga County Planning Board recommends modification or disapproval of a proposed action, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the

members thereof. If the Planning Board acts contrary to the County Planning Board recommendation of modification or disapproval of a proposed action, it shall set forth the reasons for the contrary action in a report to be filed with the County Planning Board within 30 days of final action by the Planning Board.

Planning Board Decision.

Within 62 days of the closing of the final public hearing the Planning Board shall render a decision. In its decision, the Planning Board may approve, approve with modifications, approve with conditions or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the Applicant and the Planning Board.

- A. Approval – Upon approval of the site plan, and payment by the Applicant of all fees and reimbursable costs due the Village, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Village Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested. Upon receiving the written statement of approval the applicant may apply for a building permit from the Code Enforcement Officer.
- B. Approval with modifications or conditions – The Planning Board may conditionally approve the final site plan. A copy of written statement containing the modifications required by the conditional approval with be mailed to the Applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and payment by the Applicant of all fees and reimbursable costs due the Village, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Village Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested. Upon receiving the written statement of approval, the applicant may apply for a building permit from the Code Enforcement Officer.
- C. Disapproval – upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Village Clerk and a copy thereof mailed to the Applicant by certified mail, return receipt requested, along with the Planning Board’s reasons for disapproval.
- D. Expirations and Extensions – A site plan approval shall expire one year after the date of final approval if actual construction has not been begun by the applicant. Actual construction is defined as the placing of construction materials in their permanent position fastened in a permanent manner; except that where a basement or

cellar is being excavated such excavation shall be deemed to be actual construction.

1. The Planning Board may, in its sole discretion, upon the Applicant's written request made at least 30 days prior to the expiration of the initial one year approval, grant an extension of time within which to implement the site plan, provided the applicant has made reasonable efforts to implement the site plan within the original one year period, and further provided that no such extension shall exceed one year. No further extensions shall be permitted.
2. An applicant whose site plan has expired may resubmit the intended application with any necessary updates for a new site plan approval.

Modification of Site Plans.

A site plan that has received final site plan approval may be modified upon the application of the owner for such modification. Such application shall be in accordance with the provisions of this article and the procedures applicable to such application shall be the same as are applicable to an initial application for site plan approval.

Notwithstanding the foregoing, the Planning Board approval of a modification shall not be required:

- A. If the modification *does not* involve:
 1. Construction of an addition of more than 1,000 square feet of enclosed space whether on one or more floors;
 2. Construction or relocation of more than three (3) parking spaces nor construction or relocation of any parking spaced to an area that is not adjacent to the original or planned parking area;
 3. Construction, alterations, or renovations affecting the exterior of a building or the site anticipated to cost more than \$10,000;
 4. Construction, alteration or renovation of the interior of a building involving a change in occupancy or use;
 5. Enlargement of an existing or previously approved building that involves an increase of square footage of more than 15% of the existing square footage or previously approved building;
 6. Reduction of an existing or previously approved building that involves the decrease of square footage of more than 15% of the existing square footage or previously approved building;
 7. Alteration of traffic flows and access nor a significant increase in volume of traffic;
 8. A significant (in the judgment of the Planning Board Chair) change in the aesthetic appearance of any structure or site plan element including landscaping and lighting details from that was presented at the time of the prior approval;

9. A change in the impacts of the project on surrounding properties, such as an increase in noise, water run-off, light illumination, or obstructions to views;
 10. Violation of any express conditions (including, without limitation, buffer zones, setbacks, and similar restrictions) imposed by the Planning Board in granting prior site plan approval; or
- B. If the modification **does not** involve a movement or shift of a location of one or more buildings more than two (2) feet laterally or six (6) inches vertically from the location or elevation shown on the final site plan where:
1. Such shift does not alter proposed traffic flows or access; and
 2. Such shift does not directly violate any express conditions (including, without limitation, buffer zones, setbacks, and similar restrictions) imposed by the Planning Board in granting prior site plan approval.
- C. The numerical criteria for the exceptions for the requirement of obtaining Planning Board approval are an aggregate minimum (i.e. if a 700 Square foot addition is constructed without obtaining Planning Board approval pursuant to paragraph A1 above, construction of a second addition larger than 300 square feet would require Planning Board approval of a modified site plan.)
- D. This waiver of requirement of Planning Board approval is not intended to permit construction in violation of any other provision of any other laws or codes of the Village of Spencer or New York State or the United States Government, nor the requirement to obtain a building permit in those circumstances when otherwise required by the terms of this law or by the New York State Uniform Fire Prevention and Building Code or any other codes, laws, rules, or regulations.

ARTICLE VI

Appeal of Planning Board Decision

Judicial Review.

As specified in New York State Village Law, any person aggrieved by a final site plan determination by the Planning Board may apply to the NY State Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a Planning Board decision in the office of the Village Clerk.

ARTICLE VII

Miscellaneous Provisions

Enforcement.

The Village Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate. The Village Code Enforcement Officer is empowered to file

accusatory instruments with the local Justice Court if such Officer believes there exists a violation of this law.

Amendments.

The Village Board may on its own motion, on petition, or on recommendation of the Planning Board, after public notice and hearing, amend this local law pursuant to all applicable requirements of law.

All proposed amendments originating by petition, or by motion of the Village Board, may be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

Integration of Procedures.

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other state and local law, ordinances or requirement of the Village, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this local law with the procedural and submission requirements for such other compliance.

A. Required Referral:

Whenever NY Site Plan involves real property in an area described in Section 239-m of the General Municipal Law, said Site Plan shall be referred to the Tioga County Planning Board for their review and approval pursuant to Section 239-m of the General Municipal Law.

B. Coordinated Review:

The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state and county agencies, including but not limited to, the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the state or county Department of Health, whichever has jurisdiction.

Enforcement.

A. In case of any violation or threatened violation of any provision of this local law, in addition to other remedies herein provided, the Village may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

B. The Village Code Enforcement Officer is hereby granted administrative authority and responsibility to terminate any violation of this local law by

posting a Stop Work Order on the premises wherein the violation has occurred. The Stop Work Order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all such actions specified on the Stop Work Order must be terminated immediately. If all provisions of this local law together with other conditions specified by the Code Enforcement Officer are met, then the Village Board or Code Enforcement Office may authorize the termination of the Stop Work Order.

- C. Whenever a violation of this local law occurs, any person may file a complaint in regard thereto. All such complaints shall be filed with the Village Code Enforcement Officer who may require such complaint to be in writing. The Village Code Enforcement Officer shall have the complaint properly investigated and report thereon to the Village Board, or the Village Code Enforcement Officer may cause an accusatory instrument to be filed with the local Justice Court alleging a violation of this law.
- D. A violation of this local law is declared to be an offense, punishable by either a fine not exceeding three hundred fifty dollars (\$350.00) nor less than one hundred dollars (\$100.00). Each week's continued violation shall constitute a separate additional violation. In addition thereto, the Village shall have such other remedies as are provided by law to restrain, correct or abate any violation of this local law.

Severability.

If any article, section, paragraph or provisions of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

Effective Date.

This local law shall be effective as of the date of filing with the New York Secretary of State.

