TOWN OF SPENCER

SPENCER, INDIANA

CODE OF ORDINANCES

As of 9/4/2018

TABLE OF CONTENTS

TITLE I: GENERAL PROVISIONS **4**

CHAPTER 10: GENERAL PROVISIONS 5
CHAPTER 11: TOWN STANDARDS 12

TITLE III: ADMINISTRATION **19**

CHAPTER 30: TOWN OFFICIALS 20
CHAPTER 31: TOWN ORGANIZATIONS 27
CHAPTER 32: TOWN DEPARTMENTS 34
CHAPTER 33: PURCHASING PROCEDURES 43
CHAPTER 34: FINANCES 57
CHAPTER 35: MISCELLANEOUS PROVISIONS 59
CHAPTER 36: PERSONNEL POLICY 60

TITLE V: PUBLIC WORKS **61**

CHAPTER 50: SEWER 62
CHAPTER 51: GARBAGE 83

TITLE VII: TRAFFIC CODE **84**

CHAPTER 70: GENERAL REGULATIONS 85
CHAPTER 71: TRAFFIC CONTROL DEVICES 88
CHAPTER 72: GENERAL TRAFFIC REGULATIONS 90
CHAPTER 73: SPORT BICYCLE EQUIPMENT AND OTHER RECREATIONAL VEHICLES. 99
CHAPTER 74: PEDESTRIANS 104
CHAPTER 75: PARKING 105
CHAPTER 76: TRAFFIC SCHEDULES 116
CHAPTER 77: PARKING SCHEDULE 133

TITLE IX: GENERAL REGULATIONS **143**

CHAPTER 90: ANIMALS 144
CHAPTER 91: ABANDONED VEHICLES 152
CHAPTER 92: STREETS AND SIDEWALKS 153
CHAPTER 93: NUISANCES 172
CHAPTER 94: GENERAL FIRE REGULATIONS 181
CHAPTER 95: TREE PLOTS 182
CHAPTER 96: PARKS AND RECREATION 190
CHAPTER 97: FAIR HOUSING 191
CHAPTER 98: DISCHARGE OF PROJECTILES/WEAPONS 199

TITLE XI: BUSINESS REGULATIONS **201**

CHAPTER 110: GENERAL PROVISIONS 202
CHAPTER 111: PEDDLERS AND SOLICITORS 203
CHAPTER 112: MOBILE FOOD VENDORS 204

TITLE XIII: GENERAL OFFENSES **208**

TITLE XV: LAND USAGE **209**

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION 210
CHAPTER 151: FLOOD DAMAGE PREVENTION 227
CHAPTER 153: SUBDIVISION 274
CHAPTER 154: ECONOMIC REVITALIZATION AREAS 302
CHAPTER 155: RENTAL HOUSING 307
CHAPTER 156: REDEVELOPMENT COMMISSION 312

TABLE OF SPECIAL ORDINANCES **317**

TABLE I: ANNEXATIONS 318
TABLE II: CONTRACTS AND AGREEMENTS 319
TABLE III: FUNDS 325
TABLE IV: STREET AND ALLEY VACATIONS 328
TABLE V: PLANNING AND ZONING 330
TABLE VI: PROCLAMATIONS 334
TABLE VII: TAX ABATEMENTS 335
TABLE VIII: DEVELOPMENT AREAS; ECONOMIC DEVELOPMENT AREAS 336

INDEX **337**

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS
11. TOWN STANDARDS

CHAPTER 10: GENERAL PROVISIONS

Section

10.01 Title of code
10.02 Interpretation
10.03 Application to future ordinances
10.04 Construction of code
10.05 Rules of interpretation; definitions
10.06 Severability
10.07 Reference to other sections
10.08 Reference to offices; name designations
10.09 Errors and omissions
10.10 Reasonable time
10.11 Repeal or modification of code section
10.12 Limitation periods
10.13 Ordinances unaffected
10.14 Ordinances which amend or supplement code
10.15 Section histories; statutory references
10.16 Preservation of penalties, offenses, rights and liabilities

10.99 General penalty

§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the "Spencer Code," for which designation "Code of Ordinances," "Codified Ordinances," or "Code" may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto, and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between 2 or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters, or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application, or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.
(I.C. 1-1-1-5)

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary, and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to 3 or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLERK-TREASURER. The Clerk-Treasurer of the Town Council.

COUNCIL. The Town Council.

COUNTY. Owen County, Indiana.

HIGHWAY. Includes bridges, roads, and streets, unless otherwise expressly provided.

MONTH. One calendar month.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, receiver, and bodies politic. Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER*** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING and ***FOLLOWING.*** When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

TOWNSHIP. The township or townships in which the town is located.

WRITTEN and ***IN WRITING.*** Include printing, lithographing, or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person, or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.
(I.C. 1-1-4-5)

§ 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a non-severability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.
(I.C. 1-1-1-8)

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in 1 section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority, or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers, duties, or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority, or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers, and rights were transferred.
(I.C. 1-1-6-1)

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday, or a state holiday, it shall be excluded.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture, or liability incurred under the section, unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture, or liability.
(I.C. 1-1-5-1)

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and re-enactment; but all suits, proceedings, and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.
Statutory reference:
Periods of limitation, see I.C. 1-1-1-7

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to an indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example:
(Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:
(I.C. 36-5-2-2)

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.
Statutory reference:
Inspection of public records, see I.C. 5-14-3-1 et seq.

(C) If a section of this code is derived from the previous code of ordinances of the town published in the prior year and subsequently amended, the previous code section number shall be indicated in the history by "(Prior Code, Ch. ___, Art. ___, § ___)."

§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings, and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to the following:

(1) A fine not exceeding $2,500 for the first violation; and

(2) A fine not exceeding $7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking.

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 11: TOWN STANDARDS

Section

11.01 Town boundaries
11.02 Divisions of the town
11.03 Town seal

§ 11.01 TOWN BOUNDARIES.

(A) Those portions of Section 19, Section 20, Section 21, Section 28 and Section 29 all in Township 10 north Range 3 west of the second principal meridian, Owen County, Indiana more particularly described as follows.

(B) Considering the west line of the northwest quarter of Section 20 as bearing South 00 degrees 22 minutes 57 seconds east with all bearings contained herein relative thereto.

(C) Commencing at the northwest corner of Section 20, monumented by a Brass plug; thence on and along the west line of the northwest quarter of Section 20, South 00 degrees 22 minutes 57 seconds east 2,623.01 feet to the north right-of-way of State Road #46, same being the point of beginning; thence on and along the right-of-way, south 89 degrees 22 minutes 47 seconds east 96.78 feet to the beginning of a tangent curve to the right having a radius of 1,475 feet, a central angle of 09 degrees 30 minutes 16 seconds, a radial line passing through the point bears north 00 degrees 37 minutes 13 seconds east; thence on and along the arc of the curved right-of-way 244.68 feet to the southeast corner of that certain parcel of land described in deed recorded in Book 209, Page 377 records of the county, thence on and along the east line of the certain parcel, north 00 degrees 22 minutes 57 seconds west 375.49 feet to the northeast corner thereof; thence south .89 degrees 25 minutes 52 seconds east 993.92 feet; thence north 00 degrees 38 minutes 26 seconds west 593.28 feet; thence south 88 degrees 34 minutes 26 seconds east 922.82 feet; thence south 00 degrees 38 minutes 26 seconds east 241.46 feet; thence south 89 degrees 21 minutes 34 seconds west 486 feet; thence, south 00 degrees 38 minutes 26 seconds east 337.78 feet to an overhead power line; thence south 88 degrees 06 minutes 23 seconds east 479.49 feet to an overhead power line; thence on and along the power line, north 00 degrees 08 minutes 10 seconds west 123.05 feet; thence north 89 degrees 17 minutes 38 seconds east 1,620.12 feet to the east right-of-way of old State Road #43; thence on and along the right-of-way, north 00 degrees 45 minutes 44 seconds west 310.99 feet to the beginning of a tangent curve to the right having a radius of 695.00 feet, a central angle of 26 degrees 32 minutes 47 seconds, a radial line passing through the point bears south 89 degrees 14 minutes 16 seconds west; thence northerly along the arc of the curved right-of-way 322.01 feet; thence leaving the right-of-way; north 89 degrees 32 minutes 21 seconds east 2,047.99 feet; thence south 01 degrees 57 minutes 39 seconds east 132 feet to the intersection of the west right-of-way of Laymon Avenue and the north right-of-way of James Street; thence on and along the north right-of-way south 86 degrees 48 minutes 04 seconds east 155.50 feet to the beginning of a tangent curve to the left having a radius of 125 feet, a

central angle of 70 degrees 49 minutes 42 seconds; thence northeasterly on and along the arc of the curved right-of-way 154.52 feet; thence north 22 degrees 22 minutes 14 seconds east 97.09 feet to the beginning of a tangent curve to the right, having a radius of 60 feet and a central angle of 70 degrees 52 minutes 09 seconds; thence northeasterly on and along the curved right-of-way 74.21 feet; thence continuing on and along the right-of-way and the easterly extension thereof, south 86 degrees 45 minutes 37 seconds east 30.67 feet to the centerline of State Road #67; thence on and along the centerline, north 21 degrees 39 minutes 38 seconds east 359.60 feet; thence leaving the centerline, south 67 degrees 44 minutes 22 seconds east 259.66 feet to an iron pipe found; thence, north 39 degrees 07 minutes 38 seconds east 25.48 feet to an iron pipe found; thence south 54 degrees 51 minutes 22 seconds east 134.88 feet to an iron pipe found; thence south 10 degrees 02 minutes 38 seconds west 372.98 feet to an iron pipe; thence south 64 degrees 45 minutes 22 seconds east 238.79 feet to an iron pipe found; thence south 24 degrees 00 minutes 22 seconds east 534.86 feet to an iron pipe found; thence south 57 degrees 43 minutes 38 seconds west 424.38 feet to an iron pipe found; thence north 49 degrees 20 minutes 22 seconds west 51.92 feet to an iron pipe found; thence north 73 degrees 36 minutes 22 seconds west 39.87 feet; thence south 68 degrees 19 minutes 38 seconds west 59.81 feet; thence south 66 degrees 50 minutes 38 seconds west 252 feet; thence south 42 degrees 38 minutes 38 seconds west 52 feet to an iron pipe found; thence south 00 degrees 23 minutes 38 seconds west 86.03 feet; thence east 90 degrees 00 minutes 00 seconds 343.46 feet; thence south 77 degrees 30 minutes 00 seconds east 486 feet to the northwest corner of Kay's Addition; thence the next 14 courses and distances being on and along the north, east and south lines of Kay's Addition, north 88 degrees 25 minutes 08 seconds east 67.50 feet; thence south 71 degrees 08 minutes 52 seconds east 139.70 feet; thence south 75 degrees 41 minutes 52 seconds east 200.70 feet; thence south 74 degrees 06 minutes 52 seconds east 148.30 feet; thence south 70 degrees 04 minutes 52 seconds east 154.40 feet; thence south 71 degrees 30 minutes 52 seconds east 270.80 feet; thence south 02 degrees 04 minutes 08 seconds west 143.60 feet; thence south 75 degrees 42 minutes 08 seconds west 259.40 feet; thence south 67 degrees 33 minutes 08 seconds west 159 feet; thence south 65 degrees 08 minutes 08 seconds west 247.10 feet; thence south 72 degrees 34 minutes 08 seconds west 90.50 feet; thence south 73 degrees 11 minutes 08 seconds west 147 feet; thence north 68 degrees 20 minutes 52 seconds west 57.20 feet; thence north 12 degrees 05 minutes 52 seconds west 33.60 feet to the east right-of-way of Crane Avenue; thence on and along the right-of-way, south 03 feet degrees 02 minutes 04 seconds east 186.40 feet to the north right-of-way of State Road #46; thence on and along the north right-of-way, north 74 degrees 37 minutes 56 seconds east 362.85 feet to the northeast corner of that certain parcel of land described in deed recorded in Book 207, Page 100 records of the county; thence the next 4 courses and distances being on and along the east and south lines of the certain parcel, south 00 degrees 09 minutes 56 seconds west 233.30 feet; thence north 89 degrees 50 minutes 04 seconds west 211.20 feet; thence south 00 degrees 09 minutes 56 seconds west 70.71 feet; thence north 89 degrees 50 minutes 04 seconds west 126.83 feet to the east right-of-way of the Crane Avenue; thence on and along the right-of-way south 03 degrees 02 minutes 04 seconds east 179.52 feet to the north rail of the Pennsylvania Railroad; thence on and the north rail, south 89 degrees 34 minutes 08 seconds west 955.37 feet to the northerly extension of the east right-of-way of Taylor Street; thence on and along the northerly extension and the east right-of-way, south 01 degrees 38 minutes 12 seconds east 727.70 feet to the south right-of-way of Jefferson Street; thence on and along the right-of-way, south 89 degrees 29 minutes 47 seconds west 444.70 feet; thence south 00 degrees 17 minutes 26 seconds east 1,781.47 feet to the north

bank of the White River, thence the next 7 courses and distances being on and along the north bank, north 75 degrees 10 minutes 07 seconds west 156.90 feet; thence north 67 degrees 38 minutes 48 seconds west 287.91 feet; thence north 65 degrees 17 minutes 46 seconds west 471.26 feet; thence north 68 degrees 52 minutes 16 seconds west 615.88 feet; thence north 82 degrees 21 minutes 02 seconds west 537.32 feet; thence north 86 degrees 55 minutes 33 seconds west 155.46 feet; thence south 80 degrees 52 minutes 44 seconds west 48.26 feet; thence north 00 degrees 38 minutes 35 seconds west 307.80 feet to a rebar, thence north 77 degrees 58 minutes 54 seconds west 1,212.84 feet to a rebar; thence north 84 degrees 59 minutes 04 seconds west 1,225.50 feet; thence north 00 degrees 12 minutes 05 seconds west 1,285.77 feet; thence north 61 degrees 17 minutes 50 seconds west 114 feet to the centerline of Fifth Avenue; thence on and along the centerline south 69 degrees 20 minutes 55 seconds west 19.66 feet; thence continuing on and along the centerline, south 60 degrees 46 minutes 47 seconds west 7.93 feet to the west right-of-way of State Road #67 and the beginning of a non-tangent curve to the left having a radius of 595.89 feet and a central angle of 11 degrees 21 minutes 44 seconds, a radial line passing through the point bears north 54 degrees 18 minutes 08 seconds west; thence on and along the arc of the curved right-of-way 118.71 feet; thence the next 9 courses and distances being on and along the right-of-way, south 24 degrees 20 minutes 07 seconds west 705.96 feet; thence south 24 degrees 12 minutes 46 seconds west 449.96 feet to the beginning of a tangent curve to the left having a radius of 2,295.46 feet and a central angle of 15 degrees 11 minutes 29 seconds, a radial line passing through the point bears north 65 degrees 47 minutes 14 seconds west; thence southwesterly on and along the arc of the curved right-of-way, 608.62 feet; thence south 09 degrees 01 minutes 17 seconds west 402.38 feet; thence south 19 degrees 38 minutes 54 seconds west 101.97 feet; thence south 10 degrees 01 minutes 46 seconds west 98.81 feet to the beginning of a tangent curve to the right having a radius of 1,241.78 feet, a central angle of 17 degrees 22 minutes 30 seconds, a radial line passing through the point bears south 79 degrees 58 minutes 14 seconds east; thence southerly on and along the arc of the curve 376.56 feet; thence south 27 degrees 24 minutes 16 seconds west 379.06 feet to the beginning of a tangent curve to the left having a radius of 2,020.4.1 feet, a central angle of 00 degrees 19 minutes 02 seconds, a radial line passing through the point bears north 62 degrees 35 minutes 44 seconds west; thence on and along the arc of the curve 11.19 feet to the north line of Thornridge as recorded in Plat Book 3, Page T-1 records of the county; thence the next 14 courses and distances being on and along the north, east, south and west lines of the Thornridge, south 86 degrees 43 minutes 36 seconds east 27.36 feet to the west right-of-way of the State Road #67 and the beginning of a tangent curve to the left having a radius of 1995.41 feet, a central angle of 28 degrees 06 minutes 59 seconds, a radial line passing through the point bears north 62 degrees 35 degrees 44 minutes west; thence on and along the arc of the curve 979.19 feet; thence north 89 degrees 02 minutes 34 seconds west 1305.14 feet; thence north 26 degrees 26 minutes 35 seconds west 146.66 feet; thence north 63 degrees 33 minutes 25 seconds east 180.75 feet; thence north 26 degrees 26 minutes 35 seconds west 185.37 feet; thence north 01 degrees 14 minutes 57 seconds east 110.10 feet; thence south 88 degrees 45 minutes 03 seconds east 248.28 feet; thence north 86 degrees 17 minutes 41 seconds east 226.76 feet; thence north 62 degrees 23 minutes 22 seconds east 57.74 feet; thence north 44 degrees 01 minutes 51 seconds east 181.41 feet; thence north 67 degrees 49 minutes 14 seconds east 98.97 feet; thence north 78 degrees 09 minutes 41 seconds east 144.96 feet; thence north 53 degrees 21 minutes 56 seconds east 252.09 feet; thence leaving the north line of the Thornridge Subdivision, north 00 degrees 54 minutes 47 seconds east 1,036.32 feet; thence, north 00 degrees 01 minutes 55 seconds east 150.03

feet; thence north 88 degrees 51 minutes 57 seconds west 1,920.00 feet; thence north 00 degrees 01 minutes 16 seconds east 407.99 feet to the centerline of Hyden Road; thence on and along the centerline, north 88 degrees 42 minutes 02 seconds west 424.44 feet to a 60D nail on the north-south centerline of Section 19; thence on and along the north-south centerline, north 01 degrees 16 minutes 17 seconds west 2,692.48 feet to the north right-of-way of State Road #46 and the beginning of a non-tangent curve to the left having a radius of 5,665.38 feet, a central angle of 05 degrees 52 minutes 33 seconds, a radial line passing through the point bears south 06 degrees 29 minutes 46 seconds west; thence easterly on and along the arc of the curved right-of-way 580.99 feet; thence continuing on and along the right-of-way south 89 degrees 22 minutes 47 seconds east 129.43 feet; thence north 00 degrees 37 minutes 13 seconds east 680 feet; thence south 89 degrees 22 minutes 47 seconds east 400 feet; thence south 00 degrees 37 minutes 13 seconds west 680 feet to the north right-of-way of State Road #46; thence on and along the right-of-way south 89 degrees 22 minutes 47 seconds east 1,486.36 feet to the point of beginning.

(D)The above described parcel contains 805.58 acres and is subject to all easements and right-of-ways of record.

(E) The following described land be, and the same is, hereby annexed to and declared a part of the Town of Spencer, Indiana effective as of the 2nd day of January, 2010:

(1) Part of the Southwest Quarter of Section 21-Township 10 North-Range 3 West of the second principal meridian, Owen County, Indiana more particularly described as follows: Considering the East Right-of-Way of Taylor St. as bearing North 01 degrees 38 minutes 12 seconds West with all bearings contained herein are relative to. Commencing at a point 1277.60 feet South and 1112.55 feet East of the Northwest corner of the Southwest quarter of said Section 21, same being the **POINT OF BEGINNING**, said point being on the North rail of the Pennsylvania Railroad (also known as the Vandalia Railroad); thence, on and along the North rail of said Pennsylvania Railroad (also known as the Vandalia Railroad), North 89 degrees 34 minutes 08 seconds East 955.37 feet to a point of the Northerly extension of the East line of that certain parcel of land described in Deed recorded in Book 159, Page 423, record of said County; thence on and along the East line of said certain parcel and the northerly extension thereof, South 01 degree 38 minutes 24 seconds East 430.99 feet to the Southeast corner of said certain parcel; thence on and along the South line of said certain parcel and the Westerly extension thereof South 89 degrees 29 minutes 47 seconds West 955.37 feet to the East right-of-way of Taylor St.; thence on and along said Easterly right-of-way and said Northerly extension thereof, North 01 degree 38 minutes 12 seconds West 432.20 feet to the **POINT OF BEGINNING**. The above described parcel contains 9.36 acres and is subject to all easements and right-of-ways of record.

(2)Part of the Southwest Quarter of Section 21-Township 10 North-Range 3 West of the second principal meridian, Owen County, Indiana more particularly described as follows: Considering the East Right-of-Way of Taylor St. as bearing North 01 degrees 38 minutes 12 seconds West with all bearings contained herein are relative to. Commencing at a point 1277.60 feet South and 1112.55 feet East of the Northwest corner of the Southwest Quarter of said Section 21; thence on and along the East right-of-way of Taylor St., South 01 degree 38 minutes 12 seconds East 432.20 feet to the Westerly extension of the South line of a certain parcel of land described in deed recorded in Deed Record 159 Page 423, record of said County ,same being the **POINT OF BEGINNING**; thence on and along said Westerly extension

and parallel with the Easterly extension of the South right-of-way of Jefferson St., North 89 degrees 29 minutes 47 seconds East 444.95 feet; thence parallel with said East right-of-way, South 01 degree 38 minutes 12 seconds East 295.50 feet to the Southeast corner of Williamsburg Apartments and the Easterly extension of the South right-of-way of Jefferson St.; thence on and along said Easterly extension, South 89 degrees 29 minutes 47 seconds West 444.95 feet to the intersection of the south right-of-way of Jefferson St. and the East right-of-way of Taylor St.; thence on and along said East right-of-way, North 01 degree 38 minutes 12 seconds West 295.50 feet to the **POINT OF BEGINNING**. The above described parcel contains 3.02 acres and is subject to all easements and rights-of-ways of record.

(3)Part of the Southwest Quarter of Section 21 and Part of the Northwest Quarter of Section 28- all being Township 10 North-Range 3 West of the second principle meridian, Owen County, Indiana more particularly described as follows: Considering the East Right-of-Way of Taylor St. as bearing North 01 degrees 38 minutes 12 seconds West with all bearings contained herein are relative to. Commencing at a point 1277.60 feet South and 1112.55 feet East of the Northwest corner of the Southwest Quarter of said Section 21; thence on and along the East right-of-way of Taylor St., South 01 degree 38 minutes 12 seconds East 727.70 feet monumenting the **POINT OF BEGINNING**; thence South 00 degrees 17 minutes 26 seconds East 1881.63 feet to the north bank of the White River; thence along said North bank, North 77 degrees 46 minutes 32 seconds West 455.51 feet to the Southeast corner of the Corporate boundary for the Town of Spencer; thence on and along said corporate boundary, North 00 degrees 17 minutes 26 seconds West 1781.47 feet to the south right-of-way of Jefferson St.; thence on and along said South right-of-way, North 89 degrees 29 minutes 47 seconds East 444.70 feet to the intersection of said East and South right-of-ways same being the **POINT OF BEGINNING.** The above described parcel contains 18.67 acres and is subject to all easements and right-of-ways of record.

(4) Part of the Southwest Quarter of Section 19 Township 10 North- Range 3 West of the second principle meridian, Owen County, Indiana more particularly described as follows: Consider the West line of the Southwest Quarter of said Section being North 00 degrees 05 minutes 40 seconds West with all bearings contained herein are relative to. Beginning at the Southwest corner of said Section; thence on and along the West line of the Southwest Quarter of said Section 19, North 00 degrees 05 minutes 40 seconds West 2619.13 feet to the West quarter corner of said Section; thence on and along the East-West centerline of said Section, South 88 degrees 42 minutes 37 seconds East 2585.97 feet to the west corporate boundary of the Town of Spencer; thence on and along said west boundary and with the North-South centerline of said Section, South 01 degree 16 minutes 17 seconds East 2612.34 feet to the South Quarter corner monumented by a nail found; thence leaving said corporate boundary and on and along the South line of the Southwest quarter of said Section, North 88 degrees 53 minutes 52 seconds West 2639.46 feet to the **POINT OF BEGINNING.** The above described parcel contains 156.80 acres and is subject to all easements and right-of-ways of record.

(5) A part of the Southwest Quarter of the Northwest Quarter of Section 20, Township 10 North, Range 3 West, of the Second Principal Meridian in Owen County, Indiana, being more particularly described as follows: Commencing at the Southeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 20, Township 10 North, Range 3 West; thence North 01°55’17” West on and along the East line of said Southwest Quarter, Quarter Section a distance of 396.00 feet to the TRUE POINT OF BEGINNING; thence North 89°46’19” West and parallel with the South line of said Quarter, Quarter Section a distance of 300.00 feet; thence North 01°55’17” West and parallel with the East line

of said Quarter, Quarter Section a distance of 335.00 feet; thence South 89°46’19” East and parallel with the South line of said Quarter, Quarter Section a distance of 300.00 feet to the East line of said Quarter, Quarter Section; thence South 01°55’17” East on and along said East line a distance of 335.00 feet to the Point of Beginning, containing 100,429.29 square feet (2.306 acres) more or less and subject to all easements and rights-of-way of record. AND, a part of the Southwest Quarter of the Northwest Quarter of Section 20, Township 10 North, Range 3 West, of the Second Principal meridian in Owen County, Indiana, being more particularly described as follows:Commencing at the Southeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 20, Township 10 North, Range 3 West; thence North 01°55’17” West on and along the East line of said Southwest Quarter, Quarter Section a distance of 396.00 feet to the TRUE POINT OF BEGINNING; thence North 89°46’19” West and parallel with the South line of said Quarter, Quarter section a distance of 300.00 feet; thence North 01°55’17” West and parallel with the East line of said Quarter, Quarter Section a distance of 335.00 feet; thence South 89°46’19” East and parallel with the South line of said Quarter, Quarter Section a distance of 300.00 feet to the East line of said Quarter, Quarter Section; thence South 01°55’17” East on and along said East line a distance of 335.00 feet to the Point of Beginning, containing 100,429.29 square feet (2.306 acres) more or less, and subject to all easements and rights-of-way of record, or visible and now existing.

(Ord. passed - -) (Am. Ord. 2009-3, passed 2-2-2009)

§ 11.02 DIVISIONS OF THE TOWN.

(A) *Sectional divisions.* The town shall be divided into 4 sections with Main Street dividing the town into east and west sections, and Franklin Street shall divide the town into north and south sections.

(B) *Numbering of premises.* All business houses, residences, and lots shall be numbered and each business, house and residence shall display the number assigned to it.

(C) *Benchmark* The benchmark, or initial point for grading all streets, alleys, and sidewalks of the town shall be 526.04 feet ASL.
(Prior Code, Ch. 1, Art. V)

§ 11.03 TOWN SEAL.

The seal of the town shall be circular in shape with the outer circle inscribed with the words, “Town of Spencer, State of Indiana”. The inner circle shall contain the word, “Seal”.
(Prior Code, Ch. 1, Art. VI)

TITLE III: ADMINISTRATION

Chapter

30. TOWN OFFICIALS

31. TOWN ORGANIZATIONS

32. TOWN DEPARTMENTS

33. PURCHASING PROCEDURES

34. FINANCES

35. MISCELLANEOUS PROVISIONS

36. PERSONNEL POLICY

TITLE III: ADMINISTRATION

Chapter

30. TOWN OFFICIALS
31. TOWN ORGANIZATIONS
32. TOWN DEPARTMENTS
33. PURCHASING PROCEDURES
34. FINANCES
35. MISCELLANEOUS PROVISIONS
36. PERSONNEL POLICY

CHAPTER 30: TOWN OFFICIALS

Section

General Provisions

30.01 Purpose
30.02 General regulations for town officials
30.03 Other town officials

Town Council of Trustees

30.15 Election and term of office
30.16 Oath of office
30.17 Office of President
30.18 Town Council meetings
30.19 Quorum
30.20 Robert's Rules of Order
30.21 Addressing Council meetings
30.22 Ordinances and resolutions
30.23 Rescinded actions
30.24 Powers and duties

Clerk-Treasurer

30.40 Election
30.41 Appointment of Deputy Clerk-Treasurer
30.42 Powers and duties
30.43 Books and records

Executive Officer and Town Attorney

30.60 Designation
30.61 Terms of office
30.62 Compensation
30.63 Powers and duties
30.64 Service of summons
30.65 The Town Attorney

GENERAL PROVISIONS

§ 30.01 PURPOSE.

This chapter defines the organization of the town government; it prescribes general regulations for town officials; and it states the general powers and duties of the various elective offices and departments. (Prior Code, Ch. 2, Art. I)

§ 30.02 GENERAL REGULATIONS FOR TOWN OFFICIALS.

(A) *Applicability.* The provisions of this section shall apply alike to all officers~~,~~ and employees of the town not otherwise herein specifically provided for, regardless of the time of the creation of the office or of the time of the appointment of the officer or employee.

(B) *Term of office; appointees.* Every appointive officer or employee of the town shall hold office at the will of the Town Council except where otherwise provided by statute or ordinance.

(C) *Oath of office.* Every officer of the town shall, before entering upon any duties, take the oath prescribed by law.

(D) *Bonds.*

(1) Elected and appointed officials shall be required to give surety bonds to secure the town for the proper performance of their duties in the amounts as may be prescribed by state statutes or the Town Council.

(2) The bonds shall be procured by the Clerk-Treasurer from surety companies licensed to do business in the State of Indiana and, when procured, shall be filed in his or her office.

(E) *Fees received.* No officer or employee receiving a salary from the town shall be entitled to retain any portion of any fees collected in the performance of his or her duties as a municipal officer or employee in the absence of a specific ordinance providing for same. The Town Council shall, by resolution, determine the officers and employees who shall receive fees for their services instead of an annual salary. The resolution shall determine the amount to be paid to the officers and employees and shall be paid by the Clerk-Treasurer upon the duly processed claim of the officer or employee.

(F) *Funds to Clerk-Treasurer.* All officers and employees, other than the Clerk-Treasurer, shall turn over to the Clerk-Treasurer all monies received by him or her in his or her official capacity, with a statement showing the source from which the same was received at the intervals as prescribed by law, ordinance, or the Clerk-Treasurer.

(G) *Termination of office.* Every officer and employee of the town, upon the expiration of his or her term for any cause whatsoever, shall deliver to his or her successor, all books and records which may be the property of the town; and if no successor has been appointed within 1 week after the termination of his or her office, the property shall be delivered to the Clerk-Treasurer.
(Prior Code, Ch. 2, Art. II)

§ 30.03 OTHER TOWN OFFICIALS.

The elected and appointed town officials designated by this chapter shall not be constrained in limiting the appointment of other officials within the structure of town government. The Town Council may hereinafter create, by resolution or ordinance, the offices and appoint other officials as it deems necessary for the proper, effective, and efficient functioning of town government.
(Prior Code, Ch. 2, Art. XI)

TOWN COUNCIL

§ 30.15 ELECTION AND TERM OF OFFICE.

(A) The Town Council of Trustees shall be composed of 3 Trustees elected at-large by eligible voters of the town. Each Trustee shall be elected for a term of 4 years.

(B) Any vacancy occurring in the Town Council shall be filled by the procedures in I.C. 3-13-9 *et seq.*
(Prior Code, Ch. 2, Art. III, § 1)

§ 30.16 OATH OF OFFICE.

Members of the Town Council shall, within 10 days after the election, take and subscribe, before some person authorized to administer oaths of office, the usual oath or affirmation for the faithful performance of duties of the office.
(Prior Code, Ch. 2, Art. III, § 2)

§ 30.17 OFFICE OF PRESIDENT.

The Office of Town Council President is created and he or she shall be the presiding officer of all regular and special meetings of the Town Council. The President shall be elected by the Council at the first regular meeting of the Council in January of each year for a term of 1 year.
(Prior Code, Ch. 2, Art. III, § 3)

§ 30.18 TOWN COUNCIL MEETINGS.

(A) The Town Council shall hold its regular meetings the first and third Monday of each month at 7:00 p.m. in the Municipal Building, notice shall be provided by giving at least 48 hours notice to all members of the Council and to the public pursuant to the Indiana Open Door Law (I.C. 5-14-1.5).
(Am. Ord. passed 3-5-1984; Am. Ord. passed 12-18-2006)

(B) Special meetings of the Council may be called by the President or on the request of 2 Trustees by giving at least 48 hours notice to all members of the Council and to the public pursuant to the Indiana Open Door Law (I.C. 5-14-1.5).
(Prior Code, Ch. 2, Art. III, § 4)

§ 30.19 QUORUM.

A majority of the Trustees shall constitute a quorum to do business. No ordinance shall be passed except upon the favorable vote of a majority of the members.
(Prior Code, Ch. 2, Art. III, § 5)

§ 30.20 ROBERT'S RULES OF ORDER.

Robert's Rules of Order, as revised, shall govern the deliberations of the Town Council except when in conflict with the Town Code or the Indiana Code. The rules of order, other than those required by the Indiana Code, may however, be suspended at any time by the consent of a majority of the members present at any meeting.
(Prior Code, Ch. 2, Art. III, § 6)

§ 30.21 ADDRESSING COUNCIL MEETINGS.

No person other than the President or a member of the Town Council shall address that body at any regular or special meeting except upon consent of the President.
(Prior Code, Ch. 2, Art. III, § 7)

§ 30.22 ORDINANCES AND RESOLUTIONS.

Any ordinance or resolution submitted to the Town Council shall be reduced to writing before being voted upon if requested by any 2 members of the Council.
(Prior Code, Ch. 2, Art. III, § 8)

§ 30.23 RESCINDED ACTIONS.

No vote or action of the Town Council shall be rescinded in any special meeting of the Council unless there be present, at the special meetings of the Council, as many members of the Town Council as were present at the meeting when the vote or action was taken.
(Prior Code, Ch. 2, Art. III, § 9)

§ 30.24 POWERS AND DUTIES.

The Town Council shall have all the powers and duties prescribed by statute and shall constitute the head of legislative, executive and administrative authority for the town. It shall make and establish the by-laws, ordinances and regulations which are required to carry into effect the provisions of applicable state laws and to repeal, alter or amend them as circumstances shall require.
(Prior Code, Ch. 2, Art. III, § 10)

CLERK-TREASURER

§ 30.40 ELECTION.

The Office of the Clerk-Treasurer is an elective office and an individual shall be elected as the Clerk-Treasurer by the town voters at-large for a term of 4 years.
(Prior Code, Ch. 2, Art. IV, § 1)

§ 30.41 APPOINTMENT OF DEPUTY CLERK-TREASURER.

When authorized by the Town Council, the Clerk-Treasurer may appoint a Deputy Clerk-Treasurer who shall be an assistant to the Clerk-Treasurer and who shall perform all functions delegated by the Clerk-Treasurer. The Deputy Clerk-Treasurer shall serve at the pleasure of the Clerk-Treasurer, or for an indefinite term not to exceed the term in office of the appointing Clerk-Treasurer.
(Prior Code, Ch. 2, Art. IV, § 2)

§ 30.42 POWERS AND DUTIES.

(A) The Clerk-Treasurer serves as Clerk of the town and keeps an accurate journal of all town proceedings. The Clerk-Treasurer shall keep proper files of all papers and documents of every kind and character concerning or pertaining to the proceedings of the Council.

(B) The Clerk-Treasurer receives and cares for all the funds of the town and pays out the same only on the order of the Town Council. Its accounts shall be kept in such a manner as to show when and from what sources all monies paid to it have been derived, and to whom and when the monies or any part thereof, have been paid out.

(C) The Clerk-Treasurer prepares, in cooperation with the Town Council, the town budget and maintains all financial records and submits all financial reports as required by the State Board of Accounts.

(D) On the first day of the month, or as soon thereafter as possible, the Clerk-Treasurer files with the Town Council a statement of receipts and disbursements of the Town Treasury for the preceding month, showing the balance in each of the several funds available for use by the town.

(E) The Clerk-Treasurer sends out billing, collects all monies in connection with the sewer tap-on fees and use fees and maintains records and makes arrangements for payments of indebtedness bonds of the town and the interest thereon when due, and performs all other duties regarding the Sewage Department as may be required by the Indiana Code.

(F) The Clerk-Treasurer issues all licenses, authorized by law or by town ordinance, and properly accounts for all funds received there from.

(G) Insures that all funds deposited in the Cumulative Capital Improvement Fund are appropriated and used solely for capital improvement projects for the town and that no part of the funds deposited in the fund reverts to the general fund of the town. (The term ***CAPITAL IMPROVEMENT*** means the construction or improvement of any town owned property, including but not limited to streets, thoroughfares and sewers but shall not include salaries of any public officials or employees unless directly chargeable to the improvement. The funds may also be used to retire any general obligation bonds of the town issued for the purpose of construction of improvements which would qualify for use of the funds.)
(Prior Code, Ch. 2, Art. IV, § 3)

§ 30.43 BOOKS AND RECORDS.

(A) The Clerk-Treasurer's books, accounts and vouchers shall, at all times, be subjected to examination by the Town Council or any person appointed by the Council for that purpose.

(B) All books, vouchers, monies or other property belonging to the town, and in charge or possession of the Clerk-Treasurer of the town, shall be promptly delivered to his or her successor.
(Prior Code, Ch. 2, Art. IV, § 4)

EXECUTIVE OFFICER AND TOWN ATTORNEY

§ 30.60 DESIGNATION.

(A) The Town Council may, as authorized by the Indiana Code, employ a Town Manager. No member of the Town Council shall, during the time for which he or she has been elected, be employed as the Town Manager.

(B) In the event the Town Council does not employ a Town Executive Officer or Town Manager, all references to the Town Manager as used in the code shall also mean the Town Council.
(Prior Code, Ch. 2, Art. V, § 1) (Ord. passed 7-6-1981)

§ 30.61 TERMS OF OFFICE.

The Town Executive Officer may be employed to serve at the pleasure of the Council or for a definite tenure, not to exceed the term in office of the appointing Town Council, but his or her employment shall always be terminable for cause.
(Prior Code, Ch. 2, Art. V, § 2)

§ 30.62 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits and terms of employment of the Town Executive Officer.
(Prior Code, Ch. 2, Art. V, § 3)

§ 30.63 POWERS AND DUTIES.

The Town Executive Officer shall:

(A) Be the administrative head of the government of the Town of Spencer. He or she shall be directly responsible to the Town Council for the proper administration of all affairs of the town over which the Town Council has control;

(B) Attend meetings of the Town Council and provide the Council with current or anticipated problems which will require resolution and provide it with the additional recommendations as he or she deems appropriate and in the best long and short range interest of the town;

(C) Coordinate, as required, the activities and functioning of the various boards, committees, authorities, or other special groups as may be established according to the Indiana Code or by the Town Council to meet special requirements or needs of the town;

(D) Administer the execution and enforcement of all resolutions, orders, and ordinances promulgated by the Town Council, and see that all laws of the State of Indiana required to be enforced through the Town Council are faithfully executed;

(E) Cooperate and coordinate with the Clerk-Treasurer in the financial management of funds made available through the budget process;

(F) Execute or insure execution, on behalf of the town, all contracts which the Town Council, or its officers, have the power to execute for goods, materials, services, construction, or improvement; provided, that nothing shall be deemed to amend any laws pertaining to the necessity for proper appropriation of public funds prior to contracting nor to amend any applicable laws requiring public notice for and receipt of competitive bids;

(G) Establish and provide policies for use by the head of each town department in the procurement of supplies, materials or services required by each respective department;

(H) Perform the other duties and functions as are necessary to the effective, efficient and economical operation of the town's departments or as may be assigned by the Town Council; and

(I) Shall have no powers or duties regarding the rights and responsibilities assigned to the Clerk-Treasurer by law or by order of the Town Council.
(Prior Code, Ch. 2, Art. V, § 4)

§ 30.64 SERVICE OF SUMMONS.

In all actions brought against the town, service of summons may be made on the Town Executive Officer and he or she is hereby authorized to receive the service on behalf of the town.
(Prior Code, Ch. 2, Art. V, § 5)

§ 30.65 THE TOWN ATTORNEY.

The Town Council will appoint a Town Attorney to provide it with the necessary and required legal advice, counsel, and services. He or she shall be compensated for his or her duties at an hourly rate as may be prescribed by the Town Council and he or she shall be entitled to a reasonable compensation for all services performed by him or her for the town at the direction of the Town Council.
(Prior Code, Ch. 2, Art. VI)

CHAPTER 31: TOWN ORGANIZATIONS

Section

Parks and Recreation Board

31.01 Membership
31.02 Meetings
31.03 Duties and powers

Plan Commission

31.20 Purpose
31.21 Definitions
31.22 Membership of the Commission
31.23 Organization of the Commission
31.24 Powers and duties
31.25 The Spencer Master Plan
31.26 Amendments or rejections to the Master Plan

Board of Zoning Appeals and Planning Commission

31.40 Meetings

PARKS AND RECREATION BOARD

§ 31.01 MEMBERSHIP.

(A) *Members.* Four members shall be appointed by the Town Council President.

(1) Membership shall be based on a person's interest and knowledge of parks and recreation.

(2) No more than 2 members shall be of the same political party.

(3) No member shall be on the Town Council of Trustees, or be the Town Clerk-Treasurer, be on the County Council, a County Commissioner, or a county fiscal officer.

(4) All members shall be residents of the town.
(I.C. 36-10-3-4)

(B) *Terms of office.*

(1) Members shall serve for 4 years after the initial appointment of 1 for 1 year, 1 for 2 years, 1 for 3 years, and 1 for 4 years.

(2) All terms expire the first Monday of January, but a member continues to serve until his or her successor is appointed. If a new appointment is not made by the first Monday of April, the incumbent serves another 4 year term.

(3) If a vacancy occurs, the Town Council President appoints a person to serve the remainder of that term.
(I.C. 36-10-3-5) (Prior Code, Ch. 6, Art. I) (Ord. 1985-5, passed 5-6-1985)

§ 31.02 MEETINGS.

(A) *Public meetings.* All meetings shall be open to the public. Notice shall be given pursuant to the Open Door Law.

(B) *Quarterly meetings required.* The Parks and Recreation Board shall meet at least quarterly.

(C) *Time and place of meetings.* The members shall establish times and places for each meeting.

(D) *Election of officers.* At the first meeting each year, the members shall elect a President, Vice-President, and may elect a Secretary, who does not have to be a Park Board member.

(E) *Quorum.*

(1) A majority of the membership is a quorum.

(2) No action is official unless authorized by at least 3 members present and acting.
(Prior Code, Ch. 6, Art. II) (Ord. 1985-5, passed 5-6-1985)

§ 31.03 DUTIES AND POWERS.

(A) *Duties.*

(1) Shall supervise, in general, and make rules for the Department;

(2) Shall establish rules for the use of facilities;

(3) Shall provide police protection for its property and activities, by requesting assistance from state, county, or town police, or by deputizing specified employees;

(4) Shall appoint needed administrative officers in the Parks and Recreation Department, and fix their duties; and

(5) Prepare and submit an annual budget.
(I.C. 36-10-3-10)

(B) *Powers.*

(1) May enter into contracts and leases for facilities and services, with other units, schools, or persons;

(2) May acquire and dispose of real or personal property;

(3) May exercise eminent domain;

(4) May sell, lease, or contract the mineral or natural resources of the land they own. Money from this source must be deposited in a non-reverting capital fund of the Board;

(5) Engage in self-supporting activities;

(6) May prepare, publish, and distribute reports and or materials related to their activities; and
(7) May accept gifts, donations, and/or subsidies.

(I.C. 36-10-3-18)

(a) These funds shall be deposited in a non-reverting fund, to be used as the grantor(s) specified.

(b) Claim vouchers must be signed by the Parks and Recreation Board President and Secretary.
(I.C. 36-10-3-11)
(Prior Code, Ch. 6, Art. III) (Ord. 1985-5, passed 5-6-1985)
Statutory reference:
Self-supporting activities, see I.C. 36-10-3-22

PLAN COMMISSION

§ 31.20 PURPOSE.

This subchapter creates the Spencer Advisory Plan Commission to promote the orderly growth of the town; to improve the health, welfare, safety, and convenience of its residents; and to plan development of residential, industrial, agricultural, and business needs for growth.
(Prior Code, Ch. 8, Art. I) (Ord. 1985-1, passed 1-21-1985)
Cross-reference: *Subdivisions, Chapter 153*

§ 31.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

COMMISSION. The Spencer Advisory Plan Commission.

DISTRICT. An area identified and zoned for certain purposes and use.

MASTER PLAN. A complete plan or its parts for land use and zoning, thoroughfares, sanitation, recreation, and other related matters.

PERSON. An individual, firm, partnership, company, or corporation.

PLANNING AREA. The land area in the corporate limits of the town.

PUBLIC PLACE. All tracts owned by the town.

STREETS. All public ways, streets, avenues, roads, lanes, and alleys.

UTILITY. Any facility used to provide a service that the public has a right to demand.
(Prior Code, Ch. 8, Art. II) (Ord. 1985-1, passed 1-21-1985)

§ 31.22 MEMBERSHIP OF THE COMMISSION.

(A) *Appointment and term of office.* The Commission shall consist of 7 members who shall be qualified by knowledge and experience in the development of the town and its planning area.

(1) The Town Council shall appoint 3 persons who must be elected or appointed town officials or employees of the town government, as members.

(2) The President of the Town Council shall appoint 4 persons who are residents of the town, of whom no more than 2 shall be of the same political party.

(3) Each term of office shall be 4 years, with each member serving until his or her successor is appointed and qualified.

(B) *Oath of office.* Each Commission member, before beginning his or her duties, shall take an oath of office on the certification of his or her appointment. The oath shall be filed in the Clerk-Treasurer's office.

(C) *Conflict of interest.* Any member of the Commission who has a direct or indirect financial interest in a matter before the Commission shall disclose his or her interest and shall not vote, participate, or discuss the matter at hearings.
(Prior Code, Ch. 8, Art. III) (Ord. 1985-1, passed 1-21-1985)

§ 31.23 ORGANIZATION OF THE COMMISSION.

(A) *Officers.* After appointment, members of the Commission shall meet, elect a President and Vice-President for annual terms and shall adopt the rules and by-laws as necessary. The Commission may appoint a Secretary who is not a member of the Commission.

(B) *Meetings.*

(1) The Commission normally meets at least once a month as determined by the President. All meetings of the Commission shall be open to the public. Written records of all proceedings shall be kept and be a part of the Commission's files.

(2) Special meetings may be called by the President or by 2 members on written request to the Secretary. The Secretary shall notify all members at least 3 days in advance of a special meeting, in writing. Written notice of special meetings is not required if members were notified at a regular meeting, and if all members are present at the regular meeting.

(C) *Quorum.* A quorum consists of a majority of the entire membership of the Commission.
(Prior Code, Ch. 8, Art. IV) (Ord. 1985-1, passed 1-21-1985)

§ 31.24 POWERS AND DUTIES.

The Commission shall:

(A) Make recommendations to the Town Council concerning the operation of the Commission and report on planning activities;

(B) Prepare a Master Plan for the Planning Area which will promote the general welfare, health, safety, and convenience as the town develops;

(C) Make recommendations to the Town Council on the adoption of a Master Plan, its zoning districts, and subdivisions; and to recommend changes or amendments when needed;

(D) Prescribe uniform rules for investigations and hearings;

(E) Prepare, publish, distribute reports, ordinances, and other materials;

(F) Keep a complete record of all departmental proceedings and assume responsibility for preservation of all papers and documents;

(G) Adopt a seal and certify to all official acts;

(H) Establish committees as necessary; and

(I) Approve assignments of street numbers to new lots, and name new streets. Exercise all other powers and duties prescribed by law or assigned by the Town Council.
(Prior Code, Ch. 8, Art. V) (Ord. 1985-1, passed 1-21-1985)

§ 31.25 THE SPENCER MASTER PLAN.

(A) *General.* The Master Plan shall be the basis comprehensive document used to guide the orderly development of the town:

(1) Careful, comprehensive survey and study of existing conditions and the probable future growth of the town; and

(2) Maps, plats, or materials giving information, locations, extent and characteristics of: history, population, its density, physical conditions, land use, blighted areas, streets, streams, floods; utilities, transportation; parks and recreation, public buildings and institutions, educational facilities, and/or any other factors that are a part of the structure of the town.

(B) *Basis of the Master Plan.* The Master Plan shall be based on:

(1) Careful, comprehensive survey and study of existing conditions and the probable future growth of the town; and

(2) Maps, plats, or materials giving information, locations, extent and characteristics of history, population, its density, physical conditions, land use, blighted areas, streets, streams, floods, utilities, transportation, parks and recreation, public buildings and institutions, educational facilities, and/or any other factors that are a part of the structure of the town.

(C) *Zoning districts.*

(1) The Commission shall establish and recommend the zoning districts that divide the town into areas of the kind, character, number, shape and area necessary to promote the health, welfare, safety, comfort and convenience of all.

(2) The districts created shall be subject to restrictions that may be necessary and appropriate in that district, such as use restrictions, structure restrictions, or other requirements.

(D) *Adoption of Master Plan.* Shall be in accordance with Indiana state laws.
(Prior Code, Ch. 8, Art. VI) (Ord. 1985-1, passed 1-21-1985)

§ 31.26 AMENDMENTS OR REJECTIONS TO THE MASTER PLAN.

(A) *Plan Commission hearings.*

(1) The Commission shall give notice and hold public hearings as required in I.C. 5-3-1, for any amendments or changes in the Zoning Ordinance (Master Plan).

(2) After a public hearing has been held, the Commission shall make its recommendation to the Town Council.

(3) If the Town Council wishes to amend the Zoning Ordinance, it may direct the Commission to prepare the amendment and submit it to a public hearing within 60 days after a formal written request by the Town Council:

(a) The Commission has 45 days to consider the amendment or rejection and to file a report with the Town Council. If the Commission approves an amendment or rejection, the ordinance stands as passed by the Town Council on the date the Commission reports to the Town Council;

(b) If the Commission does not file its report to the Town Council within 45 days, the Town Council action becomes final; and

(c) If the Commission disapproves the amendment or rejection, the Town Council must confirm its original vote by a 2/3 majority vote in order to pass the issue.

(B) *Petitions for amendments.*

(1) Duly signed petitions may be given to the Clerk-Treasurer by:

(a) The Commission; and

(b) The owners of at least 50% of the area involved in the petition.

(2) If a petition for amendment to the Zoning Ordinance does not originate with the Commission, it must be referred to the Commission for consideration and a report before any final action is taken by the Town Council.

(C) *Commission rejection or adverse report.*

(1) If the Commission is adverse to a proposed amendment referred to it, the proposed ordinance shall not be passed except on a new 2/3 vote of the Town Council.

(2) Failure of the Town Council to pass a zoning ordinance within 90 days after its rejection by the Commission constitutes a rejection of the proposed ordinance and it may not be reconsidered by the Commission or the Town Council until the expiration of 1 year after the date of the original rejection by the Commission.
(Prior Code, Ch. 8, Art. IX) (Ord. 1985-1, passed 1-21-1985)

BOARD OF ZONING APPEALS AND PLANNING COMMISSION

§ 31.40 MEETINGS.

Unless the meeting time and place should be changed, the regular meeting time for the Board of Zoning Appeals shall be at 7:00 p.m. and the Planning Commission shall be at 7:30 p.m. at the Municipal

Building, located at 90 North West Street, Spencer, Indiana in accordance with 31.23(B)(1).
(Ord. passed 12-18-2006)

CHAPTER 32: TOWN DEPARTMENTS

Section

Police Department

32.01 Police Department
32.02 Organization
32.03 Appointments
32.04 Compensation
32.05 Conduct of officers
32.06 Rules and regulations
32.07 Powers and duties
32.08 Use of equipment
32.09 Liabilities
32.10 Records and reports
32.11 Custody of property
32.12 Police reserves
32.13 Administrative/Suspensions Advisory Board
32.14 Handgun application fees
32.15 Handgun transfer application fees
32.16 Vehicle inspection fees
32.17 Accident report fees
32.18 Retainage of Service Weapon

Street Department

32.30 Street Department created
32.31 Appointments
32.32 Compensation
32.33 Powers and duties
32.34 Use of equipment
32.35 Records and reports

Sewage Department

32.50 Sewage Department created
32.51 Appointments
32.52 Compensation
32.53 Powers and duties
32.54 Use of equipment
32.55 Records and reports

POLICE DEPARTMENT

§ 32.01 POLICE DEPARTMENT.

(A) There is hereby created a Police Department for the town. It shall consist of the Town Marshal and the full and part-time Deputy Marshals as shall be authorized from time to time by the Town Council.

(B) The Police Department shall be under the general administrative direction of the Town Marshal.
(Prior Code, Ch. 2, Art. VII, § 1)

§ 32.02 ORGANIZATION.

(A) The Town Marshal shall be the head of the Police Department. He or she shall have supervision over all officers and members thereof and he or she shall be responsible for the performance by the Police Department of all disciplinary functions, and all persons who are members of the Police Department shall serve subject to the orders of the Town Marshal.

(B) The Department shall include a Special Deputy with limited authority who shall be designated as the Meter Person.
(Prior Code, Ch. 2, Art. VII, § 2)

§ 32.03 APPOINTMENTS.

(A) The Town Marshal shall be appointed by the Town Council and he or she shall serve at the pleasure of the Town Council. All Deputy Marshals, whether full or part-time, shall not be appointed without Town Council approval.

(B) All appointees to the Police Department, except the Meter Person, must be graduates of the Indiana Law Enforcement Academy at the time of their paid appointment date, or shall agree prior to the appointment date, to attend and pass the Academy (normally within an approximate year after their paid appointment date to the Department).
(Prior Code, Ch. 2, Art. VII, § 3)

§ 32.04 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits, and terms of employment for the Town Marshal and all deputies.
(Prior Code, Ch. 2, Art. VII, § 4)

§ 32.05 CONDUCT OF OFFICERS.

It shall be the duty of every member of the Police Department to conduct himself or herself in a proper and law abiding manner at all times. All officers shall use only the force allowable by law while executing the provisions of state law, town ordinances and town policies.
(Prior Code, Ch. 2, Art. VII, § 5)

§ 32.06 RULES AND REGULATIONS.

The Town Marshal shall make or prescribe the rules and regulations as he or she deems advisable,

when approved by the Town Council. The rules and regulations shall be binding on all members of the Department. The rules and regulations may include, but are not limited to, the conduct of members, uniforms and equipment to be worn or carried, hours of service, and all other similar matters necessary for the operation of an efficient Department.
(Prior Code, Ch. 2, Art. VII, § 6)

§ 32.07 POWERS AND DUTIES.

The Town Marshal and his or her duly appointed deputies:

(A) Shall be the conservator of peace and shall arrest, without process, all persons who within their view commit any crime or misdemeanor contrary to the Indiana Code and/or ordinances of the town, and shall suppress all breaches of the peace within their knowledge. They shall take all suspects before the court having jurisdiction of the offense with which the person is charged, and retain them in custody for no more than 48 hours without probable cause for the arrest being determined by the court of jurisdiction;

(B) Have the authority to pursue and commit to jail all felons, persons guilty of arrest, all misdemeanors and/or crimes in violation of state statutes. They may call to their aid the power of the town and enforce applicable town ordinances;

(C) Possess all the common-law and statutory powers of an Indiana law enforcement officer in relation to the service of civil process; and any warrant of search or arrest, issued by any judge, or magistrate, may be executed in any part thereof subject to the laws of the state governing arrest and bail;

(D) Shall, as needed, have the power and authority as prescribed by law for humane officers in the prevention of cruelty to animals and shall have authority to enforce town ordinances pertaining to the control of animals within the corporate limits of the town;

(E) Shall (including the person designated as Meter Person) have the authority to issue local ordinance citations for ordinance violations and control traffic as permitted by law. The Meter Person may under special conditions, (such as for funeral processions, school children crossings, and similar circumstances) also stop traffic; and

(F) Perform the other duties, allowable under the law, as may be prescribed, by the Town Council.
(Prior Code, Ch. 2, Art. VII, § 6)

§ 32.08 USE OF EQUIPMENT.

No equipment, tools, or other property of the town furnished to the Police Department shall be used for any purpose other than for accomplishing the responsibilities assigned to the Police Department without prior Town Council approval.
(Prior Code, Ch. 2, Art. VII, § 7)

§ 32.09 LIABILITIES.

The deputies, including the Meter Person, when appropriate and within the scope of their powers and duties in executing the orders of the Town Council or enforcing the ordinances of the town, shall possess the powers of and be subject to the liabilities of the Town Marshal.
(Prior Code, Ch. 2, Art. VII, § 9)

§ 32.10 RECORDS AND REPORTS.

The Town Marshal shall keep the records and make the reports concerning the activity of his or her Department, as may be required by the Indiana Code, to the Town Council and/or Clerk-Treasurer.
(Prior Code, Ch. 2, Art. VII, § 10)

§ 32.11 CUSTODY AND PROPERTY.

The Town Marshal shall have the temporary custody of all evidence, lost, abandoned, or stolen property recovered by his or her Department.
(Prior Code, Ch. 2, Art. VII, § 11)

§ 32.12 POLICE RESERVES.

(A) *Police Reserve membership.* There is hereby created a Spencer Police Reserve Unit, the membership of which shall consist of not more than fifteen (15) persons of active status. The Spencer Police Reserve Unit shall be made up of persons who at the time of their appointment shall be residents of Owen County, or contiguous counties, and who have been actual residents thereof for at least 1 year prior to their appointment. Each member shall be in good physical condition and of good character and not less than 21 years of age. Appointments to the Spencer Police Reserve Unit shall be made by the Spencer Town Council upon recommendation of the Town Marshal. Any reserve member may be discharged at any time, with or without cause, by the Spencer Town Council upon recommendation of the Town Marshal. Regular full time members of the Police Department shall not be eligible for membership in the Spencer Police Reserve Unit.

(B) *Oath, Commissions, powers, duties.* The Spencer Police Reserve Unit shall function under the immediate direction of the Town Marshal or in his or her absence, the senior officer on duty. Before entering upon his or her duties, each member shall take and subscribe to the same oath or affirmation as provided by the statutes to be taken and subscribed by all police officers. Except during any period of probation, members of the Police Reserve Unit shall have all the powers and authority and shall be subject to all the duties of members of the regularly constituted Police Department and shall be subject to the rules and regulations governing the Police Department, provided however, that membership in the Police Reserve Unit shall not constitute membership in the regularly constituted Police Department nor shall any member of the Spencer Police Reserve Unit be entitled to any right or privilege of compensation, pension or any other similar right or privilege of members of the regularly constituted Police Department nor any other prerequisite or emolument attaching to membership in the regularly constituted Police Department.

(C) *Probationary period.* Each new member of the Police Reserve Unit shall serve on probation for a period of one (1) year. During the period of probation he or she shall have only the power, authority, and duties as are assigned to them from time to time, by the Chief. Upon completion of the probationary period and/or required training, the Chief may appoint any member from probationary to active status. If a member is not appointed to active status within 1 week after the probationary period, the member shall be dropped automatically from membership in the Police Reserve Unit.

(D) *Training and by-laws.* All reserve officers shall complete the ILEA pre-basic law enforcement training, shall be firearm qualified, and shall complete any other training program that the Town Marshal deems necessary. Training shall be completed before the end of a member's probationary period. The Spencer Police Reserve Unit may adopt its own by-laws and rules or regulations and any and all amendments thereof shall at all times be subject to approval by the Chief and shall not conflict with any provisions of this section, and shall be subordinate at all times to the ordinances of the Town of Spencer and to rules and regulations of the Spencer Police Department and to the orders of the Chief.

(E) *Compensation.* No member of the Police Reserve Unit shall receive any compensation from the Town of Spencer for his or her services as a member of the Spencer Police Reserve except as may be provided from time to time by resolution of the Town Council.

(F) *Uniform.* The members of the Spencer Police Reserve Unit shall be furnished uniforms, id's and badges. Other limited necessary equipment may be provided by the Town of Spencer if approved by the Chief. Any such equipment issued to the Spencer Police Reserve shall be returned to the Town of Spencer upon termination of services.

(G) *Officers, elections and terms.* The Officers of the Spencer Police Reserve Unit shall consist of a President and Secretary/Treasurer. The election of officers shall be pursuant to the terms and conditions of the Spencer Police Reserve Unit By-laws.

(H) *Financial accounts.* The financial accounts of the Spencer Police Reserve Unit shall be subject to audit by any agent designated by the Town Council any time the Town Marshal and/or Town Council may request. Any audit shall be made by an accountant or auditor appointed by the Town Marshal and/or Town Council for this purpose. Reserve officers are authorized to accept funds made available by specific donations, fundraisers, reserve activities and other similar sources. All fundraiser or activities designed to raise funds must be pre-approved by the Chief of Police, an event registration form may be used to accomplish this.

(I) *Insurance.* The Town of Spencer shall provide adequate liability insurance for members of the Reserve Unit while on duty.
(Prior Code, Ch. 2, Art. VII, § 12) (Ord. 1991-7, passed 8-19-1991, Am. Ord. 2013-3, passed 4-1-2013)

§ 32.13 ADMINISTRATIVE/SUSPENSIONS ADVISORY BOARD.

(A) The Administrative/Suspensions Advisory Board shall consist of all current members of the Town Council, Town Attorney and the Chief Marshal.

(B) The responsibilities of this Board shall consist of:

(1) Screening applications for employment:

(a) Commissioned officers; and

(b) Reserve officers.

(2) Suspension/termination recommendations; and

(3) Department policy recommendations.

(C) This Board shall meet within 48 hours notice by the Chief Marshal or 48 hours within a suspension of an officer. The Chief Marshal shall submit recommendations or findings to the Board at that time. If the Board finds that there is substantial evidence of misconduct, the Board may recommend that the officer remain suspended until any and all investigations are completed.
(Prior Code, Ch. 2, Art. VII, § 13) (Ord. 1991-9, passed 11-4-1991)

§ 32.14 HANDGUN APPLICATION FEES.

(A) *Fees.* The Spencer Police Department, when accepting an application for a handgun license, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be accountable for the fees received as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer into a fund designated as the Firearms Training Fund.

(C) *Disposition of funds.* The funds from the Firearms Training Fund are to be used by the Spencer Chief of Police for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, and can be authorized without appropriation.
(Prior Code, Ch. 23, Art. I)

§ 32.15 HANDGUN TRANSFER APPLICATION FEES.

The Spencer Police Department, when accepting an application for the transfer of a handgun, shall not collect an amount which exceeds the maximum allowable by state law.

(A) *Accountability.* The Spencer Police Department shall be accountable for the fees received as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer as follows:

(1) Three dollars of each transfer fee shall be remitted quarterly on Form 366 to the Auditor of the State of Indiana, without appropriation. These funds are to be deposited in the general fund until remitted.

(2) Two dollars of each transfer fee shall be deposited into the Firearms Training Fund.

(B) *Disposition of funds.* The funds from the Firearms Training Fund are to be used by the Spencer Police Chief for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, and can be authorized without appropriation.
(Prior Code, Ch. 23, Art. II)

§ 32.16 VEHICLE INSPECTION FEES.

(A) *Fees.* The Spencer Police Department, when requested to inspect a motor vehicle prior to registration in this state, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be responsible for the accounting of the fees as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer in the general fund.

(C) *Disposition of funds.* The funds received for vehicle inspection shall be used as other funds are used from the general fund, by authorized appropriations.
(Prior Code, Ch. 23, Art. III)

§ 32.17 ACCIDENT REPORT FEES.

(A) *Fees.* The Spencer Police Department shall, upon request, furnish copies of accident reports, and on a request, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be responsible for the accounting of the fees as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer into a fund designated Accident Reports.

(C) *Disposition of funds.* The funds receipted to the Accident Report Fund shall be used for costs related to accident reports, or for accident prevention on the streets or highways. The funds can be authorized by the Spencer Chief of Police without being appropriated.
(Prior Code, Ch. 23, Art. IV)

§ 32.18 RETAINAGE OF SERVICE WEAPON.

(A) Upon approval of the Spencer Town Board, an eligible employee who has served the Town of Spencer Police Department for a period of at least ten (10) years and leaves the service of the Town of Spencer Police Department may retain the employee's service weapon; and,

(B) Upon the eligible employees leave, the Spencer Police Department shall issue to the employee an identification card that:

(1) Gives the employee's name and rank;
(2) Signifies that the employees has served the Town of Spencer; and,
(3) Notes the employee's authority to retain the employee's service weapon.

(IC 10-12-2-1) (Ord. 2009-16, passed 9-9-2009)

STREET DEPARTMENT

§ 32.30 STREET DEPARTMENT CREATED.

(A) There is hereby created a Street Department for the town which shall consist of a Superintendent and other employees as shall be authorized from time to time by the Town Council.

(B) The Street Department shall be under the general administrative direction of the Town Council.
(Prior Code, Ch. 2, Art. IX, § 1)

§ 32.31 APPOINTMENTS.

(A) The Superintendent of the Street Department and all other appointments to the Department shall be made only with the approval of the Town Council.

(B) The Superintendent shall be the head of the Street Department and shall have supervisory authority over all employees thereof.
(Prior Code, Ch. 2, Art. IX, § 2)

§ 32.32 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits, and terms of employment for all personnel of the Street Department.
(Prior Code, Ch. 2, Art. IX, § 3)

§ 32.33 POWERS AND DUTIES.

The Superintendent shall be:

(A) Responsible for the efficient and effective performance of the Street Department in the maintenance and repair of streets, alleys, drains, ditches, storm sewers and other public property of Spencer; and

(B) Responsible for the care, safety, use and custody of all town property provided to the Street Department for use in carrying out its functions.
(Prior Code, Ch. 2, Art. IX, § 4)

§ 32.34 USE OF EQUIPMENT.

No equipment, tools, or other property of the town furnished to the Street Department shall be unreasonably used for any purpose other than for accomplishing the responsibilities assigned to the Street Department without prior Town Council approval.
(Prior Code, Ch. 2, Art. IX, § 5)

§ 32.35 RECORDS AND REPORTS.

The Superintendent shall maintain the records and make the reports as are required by state law, to the Town Council and/or the Clerk-Treasurer.
(Prior Code, Ch. 2, Art. IX, § 6)

SEWAGE DEPARTMENT

§ 32.50 SEWAGE DEPARTMENT CREATED.

(A) There is hereby established a Sewage Department for the town which shall consist of a Superintendent and other employees as shall be authorized from time to time by the Town Council.

(B) The Sewer Department shall be under the general administrative direction of the Town Council.
(Prior Code, Ch. 2, Art. X, § 1)

§ 32.51 APPOINTMENTS.

(A) The Superintendent of the Sewage Department and all other appointments to the Sewage Department shall be made with the approval of the Town Council. The Superintendent and/or sewage disposal operators shall have, and maintain in a current status, the licenses and/or meet the technical qualifications as may be required or prescribed by state and federal laws and regulations.

(B) The Superintendent shall be the head of the Sewage Department and have supervision over all employees thereof.
(Prior Code, Ch. 2, Art. X, § 2)

§ 32.52 COMPENSATION.

The Town Council shall determine the amount of compensation, benefits, and terms of employment for all personnel of the Sewage Department.
(Prior Code, Ch. 2, Art. X, § 3)

§ 32.53 POWERS AND DUTIES.

The Superintendent shall be responsible for the:

(A) Effective and efficient operation of the Municipal Sewage Treatment Plant and the Municipal Sanitary Sewer System; and

(B) Care, safety, use and custody of all town property provided to the Sewage Department for use in carrying out its functions.
(Prior Code, Ch. 2, Art. X, § 4)

§ 32.54 USE OF EQUIPMENT.

No equipment, tools, or other property of the town furnished the Sewage Department shall be unreasonably used for any purpose other than for accomplishing the responsibilities assigned the Sewage Department without prior Town Council approval.
(Prior Code, Ch. 2, Art. X, § 5)

§ 32.55 RECORDS AND REPORTS.

The Superintendent shall maintain the records and make the reports as are required by state and federal agencies, the Town Council and/or the Clerk-Treasurer.
(Prior Code, Ch. 2, Art. X, § 6)

CHAPTER 33: PURCHASING PROCEDURES

Section

33.01 Definitions
33.02 Establishment of Purchasing Agency
33.03 Establishment of Purchasing Agent
33.04 Purchasing Agent-Duties and Responsibilities

PURCHASES-SUPPLIES

33.20 Policies for Purchases Under $2500
33.21 Policies For Purchases Less Than $50,000-Request For Proposals
33.22 Policies For Purchases Over $50,000, But Less Than $150,000-Invitation To Quote
33.23 Special Purchase Procedures
33.24 Polices for Purchases Over $150,000-Invitation to Bid
33.25 Purchasing Preference

PUBLIC WORKS PROJECTS

33.40 Polices for Public Works Projects Exceeding $150,000
33.41 Polices for Public Works Projects Less than $150,000
33.42 Alternate Procedures for Projects Costing Less than $150,000; Performance of Work by Own Workforce
33.43 Funds Not Appropriated or Not Available, Cancellation of Contract
33.44 Contract for Petroleum Products
33.45 Contracts for Sand, Gravel, Asphalt, Paving Materials or Crushed Stone
33.46 Bond or Certified Check; Requirements
33.47 Approval of Plans and Specifications by Licensed Architect or Engineer; Filing of Record Drawings
33.48 Emergencies; Contracts by Invitation
33.49 Dividing Cost of a Single Public Work Project into Two or More Projects; Prohibition

SERVICES OF ARCHITECTS, ENGINEERS, AND LAND SURVEYORS

33.60 Notice of Requirement for Professional Services
33.61 Basis for Contract Compensation
33.62 Limitations of Employment of Construction Managers; Contracts with Construction Managers Prohibited

OTHER PROVISIONS

33.80 Duties of Offerors or Prospective Contractors
33.81 Disqualification of Contractors Dealing with the Government of Iran
33.82 Contractor Requirements; Antidiscrimination Provisions
33.83 Drug Testing of Employees of Public Works Contracts
33.84 Contractors with Public Contract Required to Use E-Verify Program
33.85 Contracts Involving Steel Products
33.86 Publication of Notices
33.87 Cancellation of Solicitation; Rejection of Offer
33.88 Offers Opened After Time Stated in Solicitation

§ 33.01 DEFINITIONS

"Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, limited liability company manager or member, joint venturer, a corporation subject to common control with the architect, engineer or construction manager, a shareholder or corporation who controls the architect, engineer or construction manager, or a corporation controlled by the architect, engineer, or construction manager.

"Architect" means the person registered under IC 25-4-1.

"Board" means the board or officer of a political subdivision or an agency having the power to award contracts for public work

"Contractor" refers to a person who has a contract with a governmental body

"Construction manager" means a person designated as a construction manager by contract who provides professional management services, which contribute to the control of time and the cost and quality of a public construction project, and who performs those services concurrent with architectural and engineering services rendered during the design and construction phases of a construction project.

"Engineer" means the person registered under IC 25-31-1.

"Executive branch" refers to the department of state government provided in Articles 5 and 6 of the Constitution of the State of Indiana.

"Fiscal body" has the meaning set forth in IC 36-1-2-6.

"Governmental body" means an agency, a board, a branch, a bureau, a commission, a council, a department, an institution, an office, or another establishment of any of the following:

1. The executive branch.
2. The judicial branch.
3. The legislative branch.
4. A political subdivision.

"Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet. The term includes an Internet purchasing site developed under IC 4-13-17.

"Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

"Offer" means a response to a solicitation. The term includes a bid, proposal, and quote.

"Offeror" means a person that submits an offer to a governmental body

"Person" includes an association, a business, a committee, a corporation, a fiduciary, an individual, a joint stock company, a joint venture, a limited liability company, a partnership, a sole proprietorship, a trust, or another legal entity, organization, or group of individuals.

"Political subdivision" has the meaning set forth in IC 36-1-2-13.

"Professional services" means those services that are within the scope of practice specified by IC 25-4 for architecture, IC 25-31 for professional engineering, or IC 25-21.5 for surveying; or performed by any licensed architect, professional engineer, or professional surveyor in connection with the architect's, engineer's, or surveyor's professional employment or practice.

"Public construction project" means the construction, remodeling, rehabilitation, or repair of any building or other facility of a unit of local government, whether the building or facility is owned by the unit or leased by the unit with an option to purchase under IC 36-1-10 or any other law. However, "public construction project" does not mean highway or bridge construction.

"Public funds" means money:

1. derived from the revenue sources of the governmental body; and
2. deposited into the general or a special fund of the governmental body.

The term does not include either of the following:

1. Money received by a person under an authorized public-private agreement under IC 5-23.
2. Proceeds of bonds payable exclusively by a private entity

"Public work" means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase. The term does not include work involved in an extension or installation of utility infrastructure described in section 1(g) of this chapter.

"Purchase" includes buy, procure, rent, lease, or otherwise acquire. The term includes the following activities:

1. Description of requirements.
2. Solicitation or selection of sources.
3. Preparation and award of contract.
4. All phases of contract administration.
5. All functions that pertain to purchasing.

"Purchasing agency" means a governmental body that is authorized to enter into contracts by this article, rules adopted under this article, or by another law.

"Purchasing agent" means an individual authorized by a purchasing agency to act as an agent for the purchasing agency in the administration of the duties of the purchasing agency.

"Request for proposals" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

"Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance.

"Solicitation" means the procedure by which a governmental body invites persons to submit an offer to enter into a contract with the governmental body for the purchase or sale of supplies by the governmental body. The term includes an invitation for bids, a request for proposals, and a request for quotes.

"Specifications" means a description of the physical characteristics, functional characteristics, extent, or nature of any public work required by the board.

"Subcontractor" means a person who is a party to a contract with the contractor and furnishes and performs labor on the public work project. The term includes material men who supply contractors or subcontractors.

"Supplies" means any property. The term includes equipment, goods, and materials. The term does not include an
interest in real property.

"Unit of local government" includes any county, city, town, township, and any other political subdivision, commission, or agency created under law. However, the term does not include a school corporation or lessor corporation qualifying under IC 20-47-2 or IC 20-47-3.

"E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended,
operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).
(Ord. 2018-05, passed 6-4-2018)

§ 33.02 ESTABLISHMENT OF PURCHASING AGENCY

(A) The Spencer Town Council, (the "Purchasing Agency"), is established as the purchasing agency for the Town of Spencer.

(B) The Purchasing Agency shall have the powers and duties authorized under I.C. 5-22, as may be supplemented from time to time by ordinances adopted by the Town Council and policies adopted by the Purchasing Agency.

(C) The Purchasing Agency shall act as the Purchasing Agency for every agency, board, office, branch, commission, council, department or other establishment of the Town of Spencer.

(D) The Purchasing Agency may designate, in writing, any employee of the Town of Spencer as a Purchasing Agent.
(Ord. 1998-2, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

§ 33.03 ESTABLISHMENT OF PURCHASING AGENT

The Town of Spencer Purchasing Agency hereby establishes the Clerk-Treasurer as the Purchasing Agent for the Town of Spencer Purchasing Agency.
(Ord. 1998-3, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

§ 33.04 PURCHASING AGENT-DUTIES AND RESPONSIBLITIES

The purchasing agent is responsible for maintaining all Requests for Proposal, Quotes, Bids and shall publish any and all notices required by this section in compliance with IC 5-3-1 et seq.
(Ord. 1998-3, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

PURCHASES-SUPPLIES

§ 33.20 POLICIES FOR PURCHASES UNDER $2500

(A) , The Purchasing Agent may make purchases for normal operation of the town's business in an amount no greater than $2,500.

(B) The purchases may be made without inviting or receiving bids or RFPs. These purchases must be made for normal operation of the town's activities.

(C) The amounts must be verified by a purchase order and/or quote prior to approval, unless an emergency exists.
(Ord. 1998-5, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

§ 33.21 POLICIES FOR PURCHASES LESS THAN $50,000-REQUEST FOR PROPOSALS

(A) If the Purchasing Agent or Purchasing Agency deems that a purchase will not exceed $50,000 then the Purchasing Agent is authorized to solicit proposals through a request for proposals pursuant to the provisions of IC 5-22-9 *et seq*.
(B) The request for proposals must include the following:
(1) The factors or criteria that will be used in evaluating the proposals.
(2) A statement concerning the relative importance of price and the other evaluation
(3) factors.
(4) A statement concerning whether the proposal must be accompanied by a certified
(5) check or other evidence of financial responsibility, which may be imposed in
(6) accordance with rules of the governmental body.
(7) A statement concerning whether discussions may be conducted with responsible
(8) offerors, who submit proposals determined to be reasonably susceptible of being
(9) selected for award.
(C) The Purchasing Agent or Purchasing Agency must give notice pursuant to the provisions of IC 5-3-1 *et seq*.
(D) All proposals will be opened and read aloud in a public meeting as specified in the request for proposals.
(E) The Purchasing Agent must keep a register of all proposals containing the following information:
(1) A copy of the request for proposals.
(2) A list of all persons to whom copies of the request for proposals were given.
(3) A list of all proposals received, which must include all of the following:
(4) The names and addresses of all offerors.
(5) The dollar amount of each offer.
(6) The name of the successful offeror and the dollar amount of that offeror's offer.
(7) The basis on which the award was made.
(8) The entire contents of the contract file except for proprietary information incluced with an offer, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the request for proposals.
(F) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body, taking into consideration price and the other evaluation factors set forth in the request for proposals.
(G) All RFPs shall be kept for a period of at least ten (10) years.
(IC 5-22-9 et seq.) (Am. Ord. 2018-05, passed 6-4-2018)

§ 33.22 POLICIES FOR PURCHASES OVER $50,000, BUT LESS THAN $150,000-INVITATION TO QUOTE

(A) A purchasing agent may purchase supplies by inviting quotes from at least three (3) persons known to deal in the lines or classes of supplies to be purchased.

(B) The purchasing agent shall mail an invitation to quote at least seven (7) days before the time fixed for receiving quotes.

(C) If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required.

(D) The purchasing agent may reject all quotes.

(E) If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under the special purchasing provisions under **§**33.23.

(IC 5-22-8 et seq.) (Ord. 2018-05, passed 6-4-2018)

§ 33.23 SPECIAL PURCHASE PROCEDURES

(A) A Purchasing Agent or a Purchasing Agency may use the procedures for special purchases in the following instances:

(1) When supplies are purchased at an auction

(2) When there exists, under emergency conditions, threat to the public health, safety, or welfare.

(3) When a counterterrorism and security council has been established under IC 10-19-8-1 and a purchase made under this section is necessary to preserve security or act in an emergency.

(4) When a unique opportunity exists to obtain supplies or services at a substantial savings to a governmental body.

(5) To enter into a contract for data processing or license agreements for software programs or when only one (1) source meets the Town's reasonable requirements.

(6) When the compatibility of equipment, accessories, or replacement parts is a consideration in the purchase or if only one (1) source meets the Town's reasonable requirements.

(7) When using another purchasing method provided for in this section would seriously impair the functions of the Town.

(8) When no offer is received under any other purchasing method provided for in this section.

(9) For the evaluation of supplies or a system containing supplies in order to obtain functional information or comparative date or for a purpose, than in the judgment of the purchasing agent, may advance the long term competitive position of the governmental body.

(10) When a government discount is available

(11) When there is only one (1) source for the supply and purchasing agent determines, in writing, that there is only one (1) source for the supply

(12) When the supplies or services are being provided as a gift

(13) A purchasing agent may acquire supplies if the purchasing agent determines that the governmental body can obtain the transfer of the supplies from the federal government under IC 4-13-1.7 at a cost less than would be obtained from purchase of the supplies by soliciting for bids or proposals. However, a governmental body may not make a purchase under this section if title to the property will be transferred to the governmental body before a sufficient appropriation to pay the costs of the purchase is appropriated. However, if the supplies will be transferred to the governmental body upon conditional sale or under a lease, a lease with option to purchase, or a contract for the use of the supplies, the governmental body may make the purchase under this section if there are sufficient funds appropriated to pay the consideration required for one (1) year of the agreement. A purchasing agent who purchases or leases surplus federal materials shall, at the time of the purchase or lease, or immediately thereafter, give public notice in accordance with IC 5-3-1.

(B) A purchasing agent shall maintain the contract records for a special purchase in a separate file. The following shall be included in the file:

(1) A written determination of the basis for the special purchase and the selection of a particular contractor.
(2) The contractors name
(3) The amount and type of the contract
(4) A description of the supplies purchased under each contract.

All contracts awarded under this section shall be maintained for a minimum of five (5) years, unless otherwise required by law.

(IC 5-22-9 et seq.)(Ord. 2018-05, passed 6-4-2018)

§ 33.24 POLICES FOR PURCHASES OVER $150,000-INVITATION TO BID

(A) A Purchasing Agent must issue an invitation to bid when the purchase will exceed $150,000.
(B) The invitation for bid must contain the following information:
(1) A purchase description
(2) All contractual terms and conditions that apply to the purchase
(3) A statement of the evaluation criteria that will be used, including inspection, testing, quality, workmanship, delivery, suitability for a particular purpose, requirement imposed under IC 5-22-3-5, time and place for opening the bids, a statement concerning whether the bid must be accompanied by a certified check or other evidence of financial responsibility that may be imposed in accordance with the rules or polices of the Town, and a statement concerning the conditions under which a bid may be cancelled or rejected in whole or in part as specified under IC 5-22-18-2.
(C) Notice of the Invitation for Bid must be provided pursuant to the provisions of IC 5-3-1 and notice may also be provided by electronic access through the computer gateway administered by the office of technology or any other electronic means available to the Town.
(D) All bids must be opened publicly and at the time and place designated in the invitation for bid
(E) Bid Award:
(1) Bids must be unconditionally accepted without alteration or correction and evaluated based upon the requirements provided in the invitation for bid.
(2) All bids must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder
(F) The purchasing agency must maintain the following information and must make available for public inspection:
(1) The name of each bidder
(2) The amount of each bid.
(3) Any other information the purchasing agency deems necessary.
(4) All bids shall be kept for a period of ten (10) years

(IC 5-22-7 et seq.)(Ord. 2018-05, passed 6-4-2018)

§ 33.25 PURCHASING PRFERENCES

(A) An offeror may claim one (1) of the following types of preference for which an offeror is eligible:
(1) An Indiana business preference under IC 5-22-15-20 or IC 4-13.6-6-2.5
(2) A preference for supplies as provided by IC 5-22-15-16, 18, 19 and 24
(3) An Indiana small business preference as provided by IC 5-22-15-23
(4) An Indiana farm product preference as provided by IC 5-22-15-23.5
(B) An offeror who wants to claim a preference provided under this chapter for a given supply item must indicate in the offer what supply item in the offer is a preferred supply.
(C) An offeror who claims a preference for a given supply item must certify that the supply offered meets the qualifications set for preferred supplies.

(D) Promotion of the purchase of supplies manufactured in the United States:
(1) Supplies manufactured in the United States shall be purchased unless any of the following apply:
(a) The supplies are not manufactured in the United States in reasonable available quantities
(b) The price of the supplies manufactured in the United State exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States.
(c) The quality of the supplies is substantially less than the quality of comparable price available supplies manufactured outside the United States.
(d) The purchase of supplies manufactured in the United State is not in the public interest.

(IC 5-22-15 *et seq.*)(Ord. 2018-05, passed 6-4-2018)

PUBLIC WORKS PROJECTS

§ 33.40 POLICES FOR PUBLIC WORK PROJECTS EXCEEDING $150,000

(A) the Town Board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the Project involves the resurfacing of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measurer and verified.
(B) The Town Board shall publish notice in accordance with IC 5-3-1 and that notice shall include:
(1) A statement that the Board is calling for sealed proposals.
(2) A statement concerning where the plans and specifications can be viewed.
(3) A statement indicating the date and time for receiving bids and the date, time and place for the opening of the bids
(4) A statement concerning the requirement for the bidder to provide a financial statement, a statement of experience, a proposed plan for performance of the public work, the equipment that the bidder has available for performance of the public work and that all such statements shall be provided on the form provided by the Indiana State Board of Accounts.
(5) A statement that the bid will be awarded to the lowest responsive and responsible bidder
(6) A statement that the Board may reject all bids
(7) A statement whether the bidder will be required to post a bid bond or certified check in not more than ten percent (10%) of the contract amount.

(IC 36-1-12 et seq.)(Ord. 2018-05, passed 6-4-2018)

§ 33.41 POLICES FOR PUBLIC WORK PROJECTS LESS THAN $150,000

(A) The Town Board may invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that the plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
(B) The Notice must contain the following:
(1) A statement indicating the date and time for opening of the quotes
(2) A statement that the Board may reject all quotes.
(3) A statement indicating whether the Board will require a bond or certified check in an amount not to exceed ten percent (10%) of the contract price.

(IC 36-1-12 et seq.)(Ord. 2018-05, passed 6-4-2018)

§ 33.42 ALTERNATE PROCEDURES FOR PROJECTS COSTING LESS THAN $250,000; PERFORMANCE OF PUBLIC WORK BY OWN WORKFORCE

(A) A Public Works project for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property, if the cost of the public work is estimated to be less than two hundred fifty thousand dollars ($250,000);

(1) The board may award a contract for public work in the manner provided in IC 5-22 ; and

(2) The Board may perform any public work by means of its own workforce, without awarding a contract

(B) Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work.

(C) For purposes of this subsection, the cost of a public work project includes:

(1) the actual cost of materials, labor, equipment, and rental;

(2) a reasonable rate for use of trucks and heavy equipment owned; and

(3) all other expenses incidental to the performance of the project.

(D) The workforce of a municipality may perform a public work described above only if

(1) if the public works project is estimated to be more than one hundred thousand dollars ($100,000), the board:

(a) publishes a notice under IC 5-3-1 that describes the public work that the board intends to perform with its own workforce and sets forth the projected cost of each component of the public work; and

(b) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce.

(E) A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(IC 36-1-12-3 et seq.)(Ord. 2018-05, passed 6-4-2018)

§ 33.43 FUNDS NOT APPROPRIATED OR NOT AVAILABLE, CANCELLATION OF CONTRACT

When the fiscal body makes a written determination that the funds are not available or otherwise appropriated, the contract may be considered cancelled.

(IC 5-22-17-5)(Ord. 2018-05, passed 6-4-2018)

§ 33.44 CONTRACT FOR PETROLEUM PRODUCTS

(A) Contracts for Petroleum products must be bid.

(B) Petroleum products shall include gasoline, fuel oils, lubricants, and liquid asphalt.

(C) A Purchasing Agent may award a contract for petroleum products to the lowest responsible and responsive offeror or all responsible and responsive offerors.

(IC 5-22-17-10)(Ord. 2018-05, passed 6-4-2018)

§ 33.45 CONTRACTS FOR SAND, GRAVEL, ASPHALT, PAVING MATERIALS OR CRUSHED STONE

(A) Contracts for sand, gravel, asphalt, paving materials and crushed stone must be bid.

(B) A Purchasing Agency may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

(IC 5-22-17-11)(Ord. 2018-05, passed 6-4-2018)

§ 33.46 BOND OR CERTIFIED CHECK; REQUIREMENTS

(A) If the cost of the public work project exceeds $200,000 then a bond or certified check in an amount not to exceed ten percent (10%) of the contract price shall be required.

(B) If the cost of the public work projects is less than $200,000 then the Town may require a bond or certified check in an amount not to exceed ten percent (10%) of the contract price.

(C) Any certified checks will be returned to the unsuccessful bidders upon selection of the successful bidder. Certified checks of successful bidders will be held until delivery of the performance bond.

(IC 36-1-12-4.5) (Ord. 2018-05, passed 6-4-2018)

§ 33.47 APPROVAL OF PLANS AND SPECIFICATIONS BY LICENSED ARCHITECT OR ENGINEER; FILING OF RECORD DRAWINGS

(A) Public work performed or contracted for on a public building, the cost of which is more than one hundred thousand dollars ($100,000) may be undertaken by the board only in accordance with plans and specifications approved by an architect or engineer licensed under IC 25-4 or IC 25-31.

(B) All plans and specifications for public buildings must be approved by the state department of health, the division of fire and building safety, and other state agencies designated by statute.

(C) The board must, within sixty (60) days after the completion of the public work project, file in the division of fire and building safety a complete set of final record drawings for the public work project. However, this requirement does not apply to a public work project constructed at a cost less than one hundred thousand dollars ($100,000). In addition, the filing of the drawings is required only if the project involves a public building.

(IC 36-1-12 *et seq.*) (Ord. 2018-05, passed 6-4-2018)

§ 33.48 EMERGENCIES; CONTRACTS BY INVITATION

(A) The board, upon a declaration of emergency, may contract for a public work project without advertising for bids if bids or quotes are invited from at least two (2) persons known to deal in the public work required to be done.

(B) The minutes of the board must show the declaration of emergency and the names of the persons invited to bid or provide quotes.

(IC 36-1-12-9)(Ord. 2018-05, passed 6-4-2018)

§ 33.49 DIVIDING COST OF A SINGLE PUBLIC WORK PROJECT INTO TWO OR MORE PROJECTS; PROHIBITION

(A) the cost of a public work project includes the cost of materials, labor, equipment rental, and all other expenses incidental to the performance of the project.

(B) The cost of a single public work project may not be divided into two (2) or more projects for the purpose of avoiding the requirement to solicit bids

(IC 36-1-12-19)(Ord. 2018-05, passed 6-4-2018)

SERVICES OF ARCHITECTS, ENGINEERS, AND LAND SURVEYORS

§ 33.60 NOTICE OF REQUIREMENT FOR PROFESSIONAL SERVICES

If the Town determines that there is a need to provide notice for the engagement of professional services the notice must:

(1) Be published in accordance with IC 5-3-1;

(2) Include the location of the project, a general description of the project, general criteria to be used in selecting professional services firms, the place where any additional project descriptions or specifications are on file, the hours of business of the Town, and the last date for accepting statements of qualifications from interested parties.

(IC 5-16-11.1-4)(Ord. 2018-05, passed 6-4-2018)

§ 33.61 BASIS FOR CONTRACTS; COMPENSATION

The Town may make all contracts for professional services on the basis of competence and qualifications for the type of services to be performed and negotiate compensation that the public agency determines to be reasonable.
(IC 5-16-11.1-5)(Ord. 2018-05, passed 6-4-2018)

§ 33.62 LIMITATIONS OF EMPLOYMENT OF CONSTRUCTION MANAGERS; CONTRACTS WITH CONSTRUCTION MANAGERS PROHIBITED

(A) The Town may not employ the architect or engineer who provided design services on a public construction project or his affiliate, to be the construction manager on the project he designed.

(B) The Town may not let a general contract, or any separate trade contract, to perform work on a public construction project to the construction manager of the project.

(IC 5-16-10-2) (Ord. 2018-05, passed 6-4-2018)

OTHER PROVISIONS

§ 33.80 DUTIES OF OFFERORS OR PROSPECTIVE CONTRACTORS

(A) Responsibility of Offeror for public works projects:

(1) The Purchasing Agent shall consider the following factors when determining if an offeror is responsible:

a. The ability and capacity of the offeror to provide the supplies or service.

b. The integrity, character, and reputation of the offeror.

c. The competency and experience of the offeror.

(2) If a Purchasing Agent determines that an offeror is not responsible, that determination must be made in writing by the purchasing agent.

(3) If a Purchasing Agent requires additional information to be provided by the offeror, in writing, and the Offeror fails to provide the additional information, then the offeror may not be considered responsible. Any information that is provided by the Offeror in accordance with this section, shall not be disclosed outside the Purchasing Agency without the offeror's prior written consent.

(4) An offeror must be registered with the Indiana Secretary of State

(5) If requested by the purchasing agent, an offeror must provide evidence of financial responsibility by bond or certified check in an amount of ten percent (10%) of the contract price or other evidence specified in the solicitation.

(6) An offeror must file with the Purchasing Agent an affirmation, made under the penalties for perjury, that states the following:

(1) The offeror has not entered into a combination or an agreement: relative to the price to be offered by a person; to prevent a person from making an offer; or to induce a person to refrain from making an offer.

(2) The offeror's offer is made without reference to any other offer.

(B) Responsiveness of the Offeror for public works project:

(1) The purchasing Agent shall consider the following factors when determining if an offeror is responsive:

(a) Whether the offeror has submitted an offer that conforms in all material respects to the specifications.

(b) Whether the offeror has submitted an offer that complies specifically with the solicitation and the instructions to offerors.

(c) Whether the offeror has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(IC 5-22-16 *et seq*) (Ord. 2018-05, passed 6-4-2018)

§33.81 DISQUALIFICATION OF CONTRACTORS DEALING WITH THE GOVERNMENT OF IRAN

(A) A person is considered to engage in the investment activities in Iran if either of the following is true:

(1) The person provides goods or services of twenty million dollars ($20,000,000) or more in value in the energy sector of Iran, including providing any of the following for the energy sector of Iran:

(a) Oil or liquified natural gas tankers.

(b) Products used to construct or maintain pipelines used to transport oil or liquified

(c) natural gas.

(2) The person is a financial institution that extends twenty million dollars ($20,000,000) or more in credit to another person, for forty-five (45) days or more, if that other person:
   a. will use the credit to provide goods or services in the energy sector in Iran; and
   b. is, at the time the financial institution extends credit, a person identified on the list as a person engaging in investment activities in Iran.
(3) A person's investment contract with the Indiana public retirement system may not be used as the basis for making a determination under this chapter that the person is engaged in investment activities in Iran.

(IC 5-22-16.5-8) (Ord. 2018-05, passed 6-4-2018)

§33.82 CONTRATOR REQUIREMENTS; ANTIDISCRIMINATION PROVISIONS

A contract awarded under this chapter must conform to IC 5-16-13 and must conform with the antidiscrimination provision of IC 5-16-6-1. For any violation thereof, the Town may consider it a material breach of the contract.

(IC 36-1-12-15, 5-16-13 *et seq*. & 5-16-6 *et seq*.) (Ord. 2018-05, passed 6-4-2018)

§33.83 DRUG TESTING OF EMPLOYEES OF PUBLIC WORKS CONTRACTS

Drug testing of employees of public works contractors applies to any public works contract if the estimated cost of the contract exceeds $150,000.

(IC 36-1-12-24 & 4-13-18 *et seq*.) (Ord. 2018-05, passed 6-4-2018)

§33.84 CONTRACTORS WITH PUBLIC CONTRACT REQUIRED TO USE E-VERIFY PROGRAM

The Town may not enter into a public works contract for a public works project with a contractor unless the contract contains a provision requiring:

(A) That the Contractor enroll in and verify the work eligibility status of all newly hired employes of the contractor through the E-Verify program, and;
(B) that a contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists; and
(C) the contractor signs an affidavit affirming that the contractor does not knowingly employ an unauthorized alien.

(IC 22-5-1.7-11.1)(Ord. 2018-05, passed 6-4-2018)

§33.85 CONTRACTS INVOLVING STEEL PRODUCTS

Unless the head of the purchasing agency makes a written determination that the cost of the contract would be greater than one hundred fifteen (115%) of the cost of the contract without the following requirements of (E)(1) or (2) or the failure to impose the requirements of (E)(1)and (2), would not in any way harm the business of a facility that manufactures steel products in Indiana, or result in the reduction of employment or wages and benefits of employees of that facility, or if the purchase is less than $10,000) , a solicitation must require that if any steel products are used in:

(1) the manufacture of the supplies required under the contract; or
(2) supplies used in the performance of the services under the contract by the contractor or a subcontractor of the contractor;

the steel products must be manufactured in the United States.

(IC5-22-17-14) (Ord. 2018-05, passed 6-4-2018)

§33.86 PUBLICATION OF NOTICES

Whenever public notice is required, notice shall be given by publication in the manner prescribed by IC 5-3-1. (IC 5-3-1 *et seq*.) (Ord. 2018-05, passed 6-4-2018)

§33.87 CANCELLATION OF SOLICIATION; REJECTION OF OFFER

When the purchasing agent determines it is in the best interests of the governmental body for a solicitation to be canceled; or offers to be rejected, in whole or in part, the reasons for a cancellation of a solicitation or rejection of offers must be made a part of the contract file.
(IC5-22-18-2) (Ord. 2018-05, passed 6-4-2018)

§33.88 OFFERS OPENED AFTER TIME STATED IN SOLICITATION

(A) Offers may be opened after the time stated in the solicitation if both of the following apply:
  (1) The Town makes a written determination that it is in the best interest of the governmental body to delay the opening.
  (2) The day, time, and place of the rescheduled opening is announced at the day, time, and place of the originally scheduled opening.

(IC5-22-18-3) (Ord. 2018-05, passed 6-4-2018)

CHAPTER 34: FINANCES

Section

General Provisions

34.01 Issuance, use and control of credit cards by town employees
34.02 Town departments and authority to spend a certain amount
34.03 Adoption of Internal Revenue Service Mileage Reimbursement Rate
34.04 Internal Control Standards
34.05 Materiality Threshold

GENERAL PROVISIONS

§ 34.01 ISSUANCE, USE AND CONTROL OF CREDIT CARDS BY TOWN EMPLOYEES.

(A) This section is adopted in compliance with the State Board of Accounts *Accounting and Uniform Compliance Guidelines Manual for Cities and Towns*, Chapter 7, authorizing a town to use credit cards for purchases.

(B) The Clerk-Treasurer of the Town of Spencer is hereby authorized to apply for 1 or more credit cards to be issued in the name of the town and the use thereof by the Clerk-Treasurer, Chief of the Spencer Police Department, Street Department Supervisor and Sewer Department Superintendent. The Clerk-Treasurer is hereby authorized to pay an annual fee if necessary.

(C) Physical possession of the credit cards shall be placed with the Clerk-Treasurer, who shall authorize the use thereof by the Clerk-Treasurer, Chief of the Spencer Police Department, the Street Department Supervisor and Sewer Department Supervisor for the payment of authorized travel expenses and the authorized purchase of goods and services directly related to the operation of their specific department. In each instance of the use of a credit card, once the authorized purpose for which the use of the card is accomplished, physical possession of the card shall be returned to the Clerk-Treasurer.

(D) The Spencer Clerk-Treasurer shall maintain an accounting system, or log, which would include the names of individuals requesting usage of the cards, their title, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned.

(E) Charges are not to exceed $1,000 per department per month. Charges shall only be made on the credit card to purchase items or services which are authorized and budgeted in the budget of the town.

(F) Within 72 hours of the purchase, the person using the credit card shall provide a copy of the credit card receipt and shall inform the Clerk-Treasurer in writing of the following:

(1) The purpose of the purchase;

(2) The budgeted line item from which the purchase is to be paid; and

(3) An itemized list of all charges incurred and whether those are from a different budget line item.

(G) All credit card billing statements shall be sent by the issuer to the Clerk-Treasurer and the charges on the cards shall be paid by the Spencer Clerk-Treasurer from the appropriate budget line item pursuant to the claim procedures of the town.

(H) The Clerk-Treasurer shall pay the cards promptly so that no interest carrying charges or penalties will be incurred due to late payments. Any department head who causes interest or carrying charges to be added to the credit card account by a failure to timely provide required information to the Clerk-Treasurer shall be personally liable for the interest or carrying charges.

(I) No official or department head shall use the credit card issued to the Town of Spencer for personal transactions.
(Ord. 2006-3, passed 6-19-2006)

§ 34.02 TOWN DEPARTMENTS AND AUTHORITY TO SPEND A CERTAIN AMOUNT.

(A) The superintendents of town departments have the authority to spend up to $1,000 without prior approval, to spend from $1,000 to $2,000 with approval of the department's liaison Council member, and must have Town Council approval for expenditures above $2,000. This shall be the total amount of expenditures within a calendar month with the exception of ordinary recurring or emergency situations.

(B) In all instances of expenditures, the Superintendent is to check with the Clerk-Treasurer on availability of funds prior to placing an order. This policy shall be in effect for all departments of the town, including the Street, Sewer, Police, Fire, Building and Parks and/or Recreation Departments. This motion shall be effective upon passage.
(Ord. passed 12-20-2004)

§34.03 MILEAGE REIMBURSEMENT RATE

The rate of reimbursement for officers and employees of the Town of Spencer for actual miles traveled in their own motor vehicles on official business of the Town shall be at the current rate established by the U.S. Internal Revenue Service.
(Ord. passed 9-6-2011)

§34.04 INTERNAL CONTROL STANDARDS

(A) The Town of Spencer, Indiana hereby adopts the Uniform Internal Control Standards for Indiana Political Subdivisions established by the Indiana State Board of Accounts hereby adopted by reference and incorporated herein as if set out in full.

(B) It shall be the duty of the Clerk Treasurer to ensure that all personnel receive training concerning the internal control procedures adopted and approved herein.

(Ord. 2016-06, passed 6-20-2016)

§34.05 MATERIALITY THRESHOLD

The materiality threshold at which point the Town of Spencer shall report incidents of material variances, losses, shortages, or thefts to the State Board of Accounts is $250.
(Ord. 2016-06, passed 6-20-2016)

CHAPTER 35: MISCELLANEOUS PROVISIONS

Section

35.01 Police accident fee
35.02 Event Registration Form
35.03 Complaint Form
35.04 Dishonored Check Processing Fee

§ 35.01 POLICE ACCIDENT FEE.

The Town Council of Spencer establishes the fee for accident reports to not be an amount which exceeds the maximum allowable by state law.
(Ord. 2006-3, passed 7-3-2006)

§ 35.02 EVENT REGISTRATION FORM.

To ensure proper coordination of public events of any nature, the sponsoring entity must fill out and submit an event registration form at least 72 hours prior to the planned event and obtain approval of all requested departments of the Town of Spencer

§ 35.03 COMPLAINT FORM.

The Town will respond to complaints, suggestions, or requests concerning the Town's ordinances, procedures, or personnel issues in writing on the form prescribed by the Town of Spencer.

35.04 DISHONORED CHECK PROCESSING FEE

If for any reason any person or entity issues a written check and it comes back to the Town as dishonored by a banking institution, a charge will be issued in the amount of twenty-five dollars ($25.00). The Spencer Town Clerk-Treasurer, at its discretion, may prohibit such person or entity from presenting any further checks for payment and such person or entity may be required to present cash or money order for all future payments tendered.
(Ord. 2017-01, passed 1-17-2017)

CHAPTER 36: PERSONNEL POLICY

Section

36.01 Personnel Policy; adopted by reference

§ 36.01 PERSONNEL POLICY; ADOPTED BY REFERENCE.

The Town of Spencer's Personnel Policy is hereby adopted by reference and incorporated herein as if set out in full.
(Prior Code, Ch. 3, Art. I through XVII) (Ord. passed - -; Am. Res. 1983-5, passed 6-6-1983; Am. Ord. 1997-4, passed 6-2-1997; Am. Ord. 1997-14, passed 12-1-1997; Am. Ord. 2006-1, passed 1-9-2006; Am. Ord. passed 12-18-2006; Am. Res. 2009-11, passed 6-1-2009; Am. Res. 2012-01, passed 6-4-2012, Am. Res. 2013-7, passed 6-3-13)

TITLE V: PUBLIC WORKS

Chapter

50. SEWER

51. GARBAGE

CHAPTER 50: SEWER

Section

General Provisions

50.001 Purpose
50.002 Definitions
50.003 Powers and duties of the Town Council
50.004 Stream pollution prohibited
50.005 Connection to sanitary sewer required
50.006 Interceptors for grease, oil and sand required
50.007 Preliminary sewage treatment facilities
50.008 Right of entry
50.009 Public works, sewer

Disposal and Discharge

50.025 On-site disposal system
50.026 Unlawful discharges of sewage
50.027 Discharges into public sewer system

Maintenance

50.040 Public sewers
50.041 Building sewers

Connection of Sewers

50.055 Permit required
50.056 Building sewers
50.057 Damages to public sewers

Industrial Waste

50.070 Sampling and measurement
50.071 Special agreements
50.072 Powers and authority of inspectors

Rates, Charges and Fees

50.085 Authority of Town Council
50.086 Water consumption
50.087 Monthly sewage rates within and outside town limits
50.088 Multiple water meters and single water meter
50.089 Adjustment; sewer bill and swimming pool
50.090 Billing and collection

50.999 Penalty
Appendix A: Application for adjustment

GENERAL PROVISIONS

§ 50.001 PURPOSE.

(A) The town has constructed, operates, and maintains a Municipal Sewage System to collect sewage and convey it away from the premises where produced and for treating and disposing of it in a safe and sanitary manner.

(B) This chapter regulates and controls the connection to and use of the sewage system; it restates the rates and charges for sewage services; it requires a permit for the construction, enlargement or alteration of on-site sewage disposal systems and it provides penalties for violations of its provisions. (Prior Code, Ch. 21, Art. I)

§ 50.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

BOD (denoting ***BIOCHEMICAL OXYGEN DEMAND***). The quantity of oxygen utilized in the biochemical oxidation or organic matter under standard laboratory procedure in 5 days at 20°C, expressed in milligrams per liter (mg/l).

BUILDING DRAIN. Part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 (1.5 meters) feet outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain, through and including a suitable septic tank to the public sewer.

COMMERCIAL USER. All retail stores, restaurants, office buildings, laundries, and other private/business and service establishments.

CUSTOMER. The owner of each and every lot, parcel of real estate or building that is connected with the sanitary sewage system or otherwise discharges sanitary waste, industrial waste, water or other liquids either directly or indirectly, into the sanitary sewage system.

EASEMENT. An acquired legal right for the specific use of land owned by others, including, but not limited to, right of access to the property's septic tank for the purposes of cleaning and inspection.

FLOATABLE OIL. Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

GOVERNMENTAL USER. Legislative, judicial, administrative, and regulatory activities of federal, state, and local governments.

INDUSTRIAL USER. Any non-governmental, non-residential user of publicly owned treatment works which is identified in the *Standard Industrial Classification Manual*, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions; Division A-Agriculture,

Forestry, and Fishing; Division B-Mining; Division D-Manufacturing; Division E-Transportation, Communications, Electric Gas and Sanitary; and Division I-Services.

INDUSTRIAL WASTES. The wastewater from industrial processes, trade, or business as distinct from domestic sanitary wastes.

INSPECTOR. The Superintendent or other person or persons duly authorized by the Town Council to inspect and approve the installation of building sewers and their connection to the public sewer system.

INSTITUTIONAL USER. Social, charitable, religions, and educational activities such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users.

MAY. Permissive (see ***SHALL***).

N.P.D.E.S. PERMIT. A permit obtained from the State of Indiana by the town to discharge to treated wastewaters or Spencer into a watercourse.

NATURAL OUTLET. Any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

NORMAL DOMESTIC WASTES. Sanitary wastes which do not exceed 200 mg/1 BOD or 200 mg/1 S.S. in strength.

ON-SITE DISPOSAL SYSTEM. All equipment and devices necessary for proper conduction, collection, storage, treatment and on-site disposal of sewage; including, but not limited to, building sewers, septic tanks, subsurface absorption fields and privy vaults.

OPERATION AND MAINTENANCE. Those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and which such works were designed and constructed. The term ***OPERATION AND MAINTENANCE*** includes replacement as defined herein.

pH. The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10.

PERSON. Any individual, firm, company, association, society, corporation or group.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to the degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (.127 centimeters) in any dimension.

PUBLIC SEWER. A common sewer controlled by a governmental agency or public utility.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

RESIDENTIAL USER. Any contributor to the city's treatment works whose lot, parcel or real estate, or building is used for domestic dwelling purposes only.

SS (denoting ***SUSPENDED SOLIDS***). Solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

SANITARY SEWAGE. Waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains and all other water carried waste except industrial waste.

SANITARY SEWER. A sewer which carries sewage and into which storm, surface and ground waters are not intentionally admitted.

SEWAGE SYSTEM. All facilities for carrying, collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit that carries wastewater.

SHALL. Mandatory (see ***MAY***).

SLUG. Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24 hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

STORM DRAIN. A drain for conveying water, ground water, subsurface water, or unpolluted water from any source.

SUPERINTENDENT. Superintendent of Wastewater facilities, and/or of Watewater Treatment works of the Town of Spencer, or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in *Standard Methods for the Examination of Water and Wastewater* and referred to as nonfilterable residue.

TOXIC SUBSTANCES. Concentrations of an pollutant or combination of pollutants defined in standards issued pursuant to § 307 of the Clean Water Act (as amended).

TREATMENT WORKS. Any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions improvement, remodeling, additions and alterations thereof, elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

USEFUL LIFE. The estimated period during which a treatment works will be operated.

WASTEWATER. The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial

plants, and institutions.

WASTEWATER FACILITIES. The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.
(Prior Code, Ch. 21, Art. II) (Ord. 1997-1, passed 1-20-1997; Am. Ord. 1997-2, passed 1-20-1997)

§ 50.003 POWERS AND DUTIES OF THE TOWN COUNCIL.

The Indiana Code provides that the Town Council shall make and enforce the by-laws, ordinances, and regulations as deemed necessary to insure the safe, economical, and efficient management and operation of the Municipal Sewage System. It also provides authority for the Town Council to establish rates for sewage services and for the issuance of revenue bonds to finance construction of extensions, enlargements or improvements in the Municipal Sewage System.
(Prior Code, Ch. 21, Art. III)

§ 50.004 STREAM POLLUTION PROHIBITED.

No person shall throw, run, drain, seep or otherwise dispose into any of the streams or waters of this state, or cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise disposed into the waters, any organic or inorganic matter that shall cause or contribute to a polluted condition of the waters unless a permit for the disposal has been obtained as authorized by the Indiana Code.
(Prior Code, Ch. 21, Art. IV) Penalty, see § 50.999

§ 50.005 CONNECTION TO SANITARY SEWER REQUIRED.

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes situated within the town, and abutting any street, alley or right-of-way in which there is now located or may in the future be located a public sewer or sanitary sewer of the town, is required to install suitable toilet facilities therein, at his or her expense. The toilet facilities shall be connected directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so; provided, that the public sewer is within 300 feet of the property line.
(Prior Code, Ch. 21, Art. V)

§ 50.006 INTERCEPTORS FOR GREASE, OIL AND SAND REQUIRED.

(A) Grease, oil, hair and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing large quantities of grease or oil, or any flammable wastes, sand and other harmful ingredients. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(B) Grease and oil interceptors shall be substantially constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be water tight and equipped with easily removable covers which when bolted in place, shall be gas tight and water tight and, where

installed, all grease, oil and sand interceptors shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

(C) Interceptors shall not normally be required for private living quarters or dwelling units, however, under certain conditions of usage, the Superintendent may require the installation of a special interceptor.
(Prior Code, Ch. 21, Art. XII)

§ 50.007 PRELIMINARY SEWAGE TREATMENT FACILITIES.

(A) Where necessary in the opinion of the Superintendent, the owner shall provide at his or her expense the preliminary treatment facilities as may be necessary to reduce objectionable characteristics or constituents of the waste to within the maximum allowable limits and to control the quantities and rates of discharge of the waters or wastes.

(B) Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and of the Indiana State Board of Health, and no construction of the facilities shall be commenced until the approval is obtained in writing.

(C) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.
(Prior Code, Ch. 21, Art. XIII)

§ 50.008 RIGHT OF ENTRY.

The Superintendent and other duly authorized employees of the town shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.
(Prior Code, Ch. 21, Art. XVI)

§ 50.009 PUBLIC WORKS, SEWER.

(A) The Superintendent may determine whether the suitable septic tank required as a component of the building sewer will satisfy the requirements for an interceptor(s).

(B) Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

(C) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

(D) The Superintendent may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

(1) Wastewaters discharged peak rate and volume over a specified time period;

(2) Chemical analyses of wastewaters;

(3) Information on raw materials, processes, and products affecting wastewater volume and quality;

(4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control;

(5) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;

(6) Details of wastewater pretreatment facilities; and

(7) Details of systems to prevent and control the losses of materials through spills to the municipal sewers.

(E) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Superintendent.

(F) (1) No statement contained herein shall be construed as preventing any special agreement or arrangement between the town and any user whereby a waste of unusual strength or character may be accepted by the town for treatment.

(2) Any wastes described herein are precluded from such agreements.

(G) Any entity wishing to enter any manhole or other areas of the Spencer sewer system shall obtain a confined space permit by applying on a form provided by the Town of Spencer's Sewer Superintendent. (Ord. 1997-1, passed 1-20-1997)

DISPOSAL AND DISCHARGE

§ 50.025 ON-SITE DISPOSAL SYSTEM.

(A) *Must comply with Board of Health regulations.* The design, construction, installation, location, maintenance and operation of on-site sewage disposal systems shall comply with the provisions of regulations issued by the State Department of Health and the regulations as may be issued by the Owen County Health Department.

(B) *Unlawful to install or alter without a permit.* It shall be unlawful to construct, enlarge, modify, or alter any privy, privy vault, septic tank, cesspool or other on-site facilities intended or used for the disposal of sewage without first obtaining a permit therefore.

(C) *Application for permit.*

(1) The owner shall apply to the Clerk-Treasurer for a permit to construct, enlarge, modify, or alter an on-site disposal system on property owned by him or her.

(2) Upon completion of the application and payment of the required fee, the Clerk-Treasurer

will issue a permit to accomplish the work specified therein.

(3) A copy of the permit will be provided for the applicant, a copy will be forwarded to the Owen County Health Department, and a copy retained in the office of the Clerk-Treasurer.

(D) *Permit fees.*

(1) The permit fees for on-site sewage disposal systems shall be:

(a) For construction of new system: $25; and

(b) For the enlargement, modification or alteration to an existing system: $25.

(2) No permit or permit fee is required for cleaning an on-site sewage disposal system.

(E) *Inspection.*

(1) The permit holder shall notify the Owen County Health Department when the installation is ready for final inspection and before any underground portions are covered.

(2) After the inspection, the permit holder will be responsible for providing the Clerk-Treasurer with a statement signed by a representative of the Owen County Health Department that the installation is approved and meets the requirements of the State Board of Health and the Owen County Health Department.

(3) Until the Clerk-Treasurer is provided such a statement, it shall be unlawful for the on-site disposal system to be used for sewage disposal purposes.

(F) *Operation and maintenance.*

(1) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(2) At the time as a public sewer becomes available to a property served by a private sewage disposal system as provided in § 50.004 above, a direct connection shall be made to the public sanitary sewer in compliance with this subchapter and any septic tanks, cesspools and similar private sewage disposal facilities shall be permanently closed and abandoned.
(Prior Code, Ch. 21, Art. VI) Penalty, see § 50.999

§ 50.026 UNLAWFUL DISCHARGES OF SEWAGE.

(A) *Discharge of sewage into natural outlet.* The discharge of any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment therefore has been provided in accordance with the provisions of this subchapter into any natural outlet within the town, or in any area under the jurisdiction of the town, is prohibited.

(B) *Deposit of objectionable waste prohibited.* It is prohibited for any person to place, deposit, or permit to be deposited, in any unsanitary manner upon public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.
(Prior Code, Ch. 21, Art. X) Penalty, see § 50.999

§ 50.027 DISCHARGES INTO PUBLIC SEWER SYSTEM.

(A) *Surface and other waters prohibited.*

(1) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

(2) Storm water and all other unpolluted drainage shall be discharged to the sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent.

(3) Industrial cooling water or unpolluted process waters may be discharged upon approval of the Superintendent to a storm sewer or natural outlet.

(4) Any waters containing toxic substances or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process including, but not limited to, causing the town to violate its N.P.D.E.S. permit(s), constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.

(5) Any waters or wastes having a pH lower than 6.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.

(B) *Certain waters and waste materials prohibited.* No person shall discharge or cause to be discharged any of the following described waters or wastes into any sanitary sewer:

(1) Any waters or wastes having a BOD5 daily 40 mg/l by weight or containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

(2) Any waters or wastes containing suspended solids of the character and quantity of more than daily 45 mg/l by weight or that unusual attention or expense is required to handle the materials at the sewage disposal plant;

(3) Any noxious or malodorous gas or substance capable of creating a public nuisance;

(4) Any liquid or vapor having a temperature higher than 150°F;

(5) Any water or waste which may contain more than 100 parts per million, by weight of fat, oil, or grease;

(6) Any water or waste which may contain more than 25 parts per million, by weight of soluble oils;

(7) Any gasoline, benzene, naphtha, fuel oil or other inflammable or explosive liquid, solid or gas;

(8) Any garbage that has not been properly shredded; and

(9) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sanitary sewers or other interference with the proper operation of the Sewage Treatment Plant;
(Prior Code, Ch. 21, Art. XI)

(10) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Superintendent for such materials;

(11) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Superintendent;

(12) Any radioactive wastes or isotopes of such half-life or concentration as may be exceed limits established by the superintendent in compliance with applicable state or federal regulations;

(13) Quantities of flow, concentrations, or both which constitute a “slug”, as defined herein;

(14) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;

(15) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment process; and

(16) Any water or wastes subject to the categorical pretreatment standards pursuant to 40 C.F.R. part 403 (etc.).

MAINTENANCE

§ 50.040 PUBLIC SEWERS.

(A) The Superintendent is responsible for the maintenance, to include clearing stoppages, of all public sewers. He or she shall have no responsibility for the maintenance or clearance of stoppages of any building sewer from its point of connection to the public sewer to the building it serves.

(B) In the event of individual sewer service disruptions, the presumption shall be that the disruptions are not caused by malfunctions or breakages in the public sewer. It shall be the responsibility of each customer to overcome this presumption by providing evidence to the satisfaction of the Superintendent that the sewer service disruption is the town's responsibility as set out herein.

(C) Upon request, the Superintendent or his or her representative, at his or her discretion, may provide assistance to customers in locating the cause of a sewer service disruption.

(D) In no event shall the town be responsible for expenses incurred by customers in locating service disruptions caused by the use or connection to the public sewer. If the Superintendent determines that the service disruption ~~to~~ resulted from the maintenance or design of the public sewer connections the Town may, in its sole discretion, determine that a credit, partial or full, may be awarded to the customer. (Prior Code, Ch. 21, Art. VII, § 1)

§ 50.041 BUILDING SEWERS.

The owner or person responsible for a building sewer shall be responsible for the maintenance, including the clearing of stoppages of the building sewers from the point where it is connected to the public sewer to the building it serves.
(Prior Code, Ch. 21, Art. VII, § 2)

CONNECTION OF SEWERS

§ 50.055 PERMIT REQUIRED.

(A) *Unlawful to connect without permit.* No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk-Treasurer.

(B) *Classes of permits.*

(1) There shall be 3 classes of building sewer connection permits:

(a) Residential;

(b) Commercial; and

(c) Industrial.

(2) In either case, the owner or his or her agent shall make application on a special form furnished by the Clerk-Treasurer, Municipal Building, and the permit applications shall be supplemented by any plans, specification or other information considered pertinent in the judgment of the Superintendent.

(C) *Permit and inspection fee.* All permit inspection fees will be payable pursuant to a schedule published annually and modified and amended accordingly by the Town Code.
(Prior Code, Ch. 21, Art. VIII) Penalty, see § 50.999

§ 50.056 BUILDING SEWERS.

(A) *Connection costs borne by owner.* All costs and expenses incident to the installation and connection of a building sewer shall be borne by the owner. The owner, or the person installing the building sewer for the owner, shall indemnify the town and any loss or damage to any sidewalks, streets, alley or other public property that may directly or indirectly be caused by the installation and connection of the building sewer to the public sewer.

(B) *Separate building sewer required.* A separate and independent building sewer shall be provided for every building; except where 1 building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. In such cases, the building sewer from the front building may be extended to the rear building and the whole considered as 1 building sewer.

(C) *Use of old building sewers.* Old building sewers may be used in connection with new buildings only when they are found on examination and test by the Superintendent to meet all requirements of this subchapter.

(D) *Location, depth and alignment of building sewer.* Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within 3 feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(E) *Drain too low for gravity flow.* In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the drains shall be lifted by artificial means and discharged to the building sewer as approved by the Superintendent. No water operated sewage ejector shall be used.

(F) *Excavations for building sewers.*

(1) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in accordance with latest ASTM specifications except that no backfill shall be placed until the work has been inspected by the Superintendent.

(2) Chapter 92 of the Town Code will apply to excavations involving streets, alleys, sidewalks or other public property.

(G) *Size and slope of building sewers.* The size and slope of the building sewers shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than 4 inches. The slope of the 4 inch pipe shall not be less than 1/8 inch per foot.

(H) *General sewer material specifications.* The building sewer shall be cast iron soil pipe, ASA specification or equal; vitrified clay sewer pipe, ASTM specification or equal; or other suitable material approved by the Superintendent.

(1) All joints and connections shall be made gas tight and water tight. Cast iron pipe joints shall be firmly packed with oakum or hemp and secured only with pure molten lead, not less than 1 inch deep. Lead shall be run in 1 pouring and caulked tight. No paint, varnish, or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.

(2) All joints in vitrified clay pipe or between the pipe and metals shall be made with approved jointing material in accordance with the latest edition of the *Plumbing Rules and Regulations* issued by the Administrative Building Council of Indiana.

(3) Other jointing materials and methods may be used only upon approval of the Superintendent.

(I) *Required materials under special conditions.* Any part of the building sewer that is located within 10 feet of a water service pipe shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipes with leaded joints may also be required where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Superintendent.

(J) *Connection to public sewer.* The connection of the building sewer into the public sewer shall

be made at the "y" branch if the branch is available at a suitable location. Where the public sewer has no properly located "y" branch available, a neat hole shall be cut in the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about 45 degrees. A standard flanged saddle shall be used to make the connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at a higher elevation than the invert of the public sewer. Mastic compound shall be used between the public sewer and flanged saddle and the connection made secure and water tight by encasement in concrete.

(K) *Inspection.* The person to whom the building sewer permit was issued shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent.
(Prior Code, Ch. 21, Art. IX)

(L) *Connections.*

(1) No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, sump pumps, basement or yard drains, or other sources of surface runoff or groundwater to a building sewer which in turn is connected directly or indirectly to a public sanitary sewer.

(2) Any such connection to a private sewage disposal system which existed prior to the availability of public sewers shall be removed from the building sewer prior to connection with the public sewer.

(M) The connection of the building sewer in to the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town and State of Indiana, or the procedures set forth in appropriate specifications of the ASTM and the CF Manual or Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(N) The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his or her representative. The applicant shall provide access to all structures (and areas of structures) to the Superintendent for the purpose of establishing compliance herewith.

(O) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Superintendents of Streets and Sewer.
(Ord. 1997-1, passed 1-20-1997)

§ 50.057 DAMAGES TO PUBLIC SEWERS.

No persons(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct, criminal mischief and theft.
(Ord. 1997-1, passed 1-20-1997)

INDUSTRIAL WASTE

§ 50.070 SAMPLING AND MEASUREMENT.

(A) *Manhole required.* When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole shall be accessible and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(B) *Testing industrial waste.* All measurements, tests and analysis of the characteristics of water and wastes shall be determined from samples taken at the control manhole in accordance with *Standard Methods for the Examination of Water and Sewage.* In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.
(Prior Code, Ch. 21, Art. XIV)

§ 50.071 SPECIAL AGREEMENTS.

No statement contained in this subchapter shall be construed as preventing any special agreement or an arrangement between the town and any industrial or commercial concern whereby an industrial waste of unusual strength, quantity or character may be accepted by the industrial or commercial concern.
(Prior Code, Ch. 21, Art. XV)

§ 50.072 POWERS AND AUTHORITY OF INSPECTORS.

(A) The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this chapter.

(B) (1) The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system.

(2) The industry may withhold information considered confidential.

(3) The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(C) While performing the necessary work on private properties referred to herein, the Superintendent or duly authorized employees of the town shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the town employees, and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be cause by negligence or failure of the company to maintain safe conditions as required herein.

(D) (1) The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement.

(2) All entry and subsequent work, if any on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Ord. 1997-1, passed 1-20-1997)

RATES, CHARGES AND FEES

§ 50.085 AUTHORITY OF TOWN COUNCIL.

The Town Council has the responsibility and authority to establish and to adjust, when necessary, the rates and charges made for sewage services on a just and equitable basis to insure the financial solvency of the sewage disposal system and for the payment of all bonded indebtedness. The rates and charges for sewage services shall not only be based upon the type of user and quantity of sewage discharged into the sewage system but also on the type, strength and character of the sewage and waste the sewage system is required to treat and dispose of. The Town Council also has the responsibility, right and authority to test and determine the type, strength and character of sewage in such manner and method as it may find practicable.
(Prior Code, Ch. 21, Art. XVII, § 1)

§ 50.086 WATER CONSUMPTION.

Applies to all sewer customers in or out of the town limits.

(A) *Determination of water used.*

(1) Customers of the sewer system who are customers of the Bean Blossom Patricksburg Water Corporation (BB & P) have water meters and the town will get the usage from BB & P each month. If a sewer customer uses well water, or any other source of water that is not now metered, the customer must install an acceptable water meter (that measures gallons of water consumed) at his or her own expense.

(2) The town shall obtain a monthly meter readout from BB & P that shows gallons of water consumed.

(3) Customers that have their own meter installed will have their meter read by the Town of Spencer Sewer Department personnel.

(B) *Meter readings.* The customer shall have their meter read by Spencer Sewer Department personnel as of the first day of each month and report the reading for the month by day 5 of that month.
(Prior Code, Ch. 21, Art. XVII, § 2)

§ 50.087 MONTHLY SEWAGE RATES WITHIN AND OUTSIDE TOWN LIMITS.

(A) Each user shall pay a monthly base charge of:

Meter Size	*Billing And Collection*	*Debt Service*	*Total Monthly Base Charge*
5/8 - 3/4 inch meter	$7.40	$10.40	$17.80
1 inch meter	$7.40	$26.55	$33.95
1-1/2 inch meter	$7.40	$59.70	$67.10
2 inch meter	$7.40	$106.05	$113.45
3 inch meter	$7.40	$238.50	$245.90
4 inch meter	$7.40	$423.95	$431.35
6 inch meter	$7.40	$953.90	$961.30

(B) A user charge rate for operation and maintenance including replacement of $8.34 per 1,000 gallons of water calculated as follows:

	Collection System Maintenance	*Treatment User Charge*	*Treatment Debt Service*	*Total User Charge Rate*
Per 1,000 gallons of water	$2.26	$3.83	$2.25	$8.34

(Prior Code, Ch. 21, Art. XVII, §§ 3 and 4) (Am. Ord. 2007-1, passed 3-5-2007)

§ 50.088 MULTIPLE WATER METERS AND SINGLE WATER METER.

Customers serviced by more than 1 water meter will be issued separate bills for each meter. (Prior Code, Ch. 21, Art. XVII, § 7)

§ 50.089 ADJUSTMENT; SEWER BILL AND SWIMMING POOL.

(A) *Adjustment of sewer bill.*

(1) Whenever any customer of the Town's sewer works has a leak or other damage to its water system which results in an extraordinary sewer bill, and where evidence can be found that the water used did not enter the Town's sewer system, that customer may make a written application for adjustment of the customer's sewer bill on forms provided by the Town of Spencer.

(2) All requests for sewer bill adjustment of this nature must be made within 30 days of the date of the extraordinary billing or within 45 days after the discovery of the extraordinary billing (in the sole discretion of the Town Board). Each customer shall be entitled to one adjustment per 12 month cycle.

(3) The Town of Spencer Sewer Department will inspect the property after application and determine the nature and cause of the high water usage.

(4) The Town Sewer Clerk will determine the average usage based up to a 12 month cycle of that location. The billing may be adjusted by the Town Board by abating that portion of the sewer bill that exceeds the average usage as described herein.

(5) Where there is any evidence of multiple causes or the amount of water not entering the sewer system cannot be determined with precision for any reason, the Town Board may choose to abate the amount of the billing in any amount that it deems appropriate in its sole discretion.

(6) All decisions of the Town Board are final and no appeal is available.

(B) *Sewer fee adjustment for swimming pools.* A customer of the Spencer Sewer System will be allowed a credit or no charge for the amount of water the customer uses to fill a swimming pool upon the following terms and conditions:

(1) The customer shall notify the Sewer Department of the customer's intent to fill a swimming pool by completing an application for a fee adjustment and submit the application to the Spencer Sewer Department for approval or rejection. The application shall be prepared by the Sewer Department and shall be available upon the effective date of this subchapter. The customer shall supply all information as requested on the application and shall comply with all the terms and conditions of the application. The customer shall date and sign the application under oath or verification. Application must be filed by August 15 unless the customer is requesting a first time fill.

(2) The customer shall record the water meter reading prior to the filling of the swimming pool and the water meter reading after the swimming pool is filled. The difference between these 2 readings shall be the amount of water used (the readings shall be in gallons of water used) to fill the swimming pool. The customer shall file these readings on the application noted in division (B)(1) above.

(3) The customer's sewer bill may include a fee for the amount of water used to fill the swimming pool, however, upon approval of the Spencer Town Council, the amounts will be adjusted on your next months billing.

(4) The customer shall pay the minimum monthly service charge regardless of any credit for water used to fill a swimming pool.

(5) This credit for swimming pools shall be available to the customer only during the months of May, June and July of any calendar year. Unless the customer is requesting a first time fill, then the pool can be filled at any time during the calendar year.

(6) A customer shall be entitled to only 1 credit per swimming pool per parcel of land that is serviced by the Municipal Sewer System under this section in any calendar year.

(7) The discharge of the water from the swimming pool shall not be discharged into the Municipal Sewer System.

(8) Applications for adjustment of the sewer bill for swimming pool fills will be the sum of $10.00.

(C) *High Volume Commercial Users/Deduct Meter.*

(1) Any commercial customer of the Town of Spencer Sewer Department who has substantial sewer bills which arise in part from water usage that does not enter the Town's sewer system may make written application, on the forms provided by the Town of Spencer, to install what is commonly known as a "deduct meter". The deduction for water that does not flow through the Town sewer system will be calculated at 85% of the amount shown on the deduct meter.

(2) The property owner is responsible for the meter and installation and will be required to obtain the appropriate plumbers permits and required to provide the plumbers licensed certifications and installation diagrams prior to the installation of the sewer deduct meter.

(3) The application for credit for water measured by a deduct meter will begin only after the required documentation has been submitted and the Town has approved the installation.

(4) The deduct meter will be read monthly, and the meter will be equipped with a functioning outside remote reader. No estimated readings will be used.

(5) No deduct meter location changes or meter replacements will be allowed without prior approval of the Town. The deduct meter must meet the following town specifications:

a. Neptune Model T-1 proread wired with outside touchpad. Registration in cubic feet.
b. Meter shall be installed level and parallel to the floor.
c. Meters shall be installed using couplings.
d. Meter shall be installed so that it is easily accessible for future inspections. The meter is to be installed at least 12" above the floor and 18" below the bottom of floor joists.
e. If so determined by the plumbing inspector, a backflow prevention device must be installed.
f. The touchpad is to be installed by the plumbing contractor on the outside near the front corner of the house.

(6) The meter is to be installed on the downstream side of the water meter as close to the outside use connections (hose bibs, sprinkler control valve, etc) as practical. There can be no sewer serviced plumbing fixture connections downstream of the deduct meter. Meter must be able to be read day or night.

(7)The cost of the application fee for a deduct meter is the sum of $100.00 payable to the Town of Spencer at the time of application. There shall be an annual service charge of $75.00 billed on or about July 1 in each subsequent year, regardless of the month of installation. No rebate is afforded for partial annual user.

(8)In the event of any malfunction of the meter and/or its appurtenances become damaged, including any damage that may result from allowing the meter to become frozen, shall be responsibility of the property owner.

(D) *High Volume Commercial Users/Outflow Meter.*

(1) High Volume Commercial Users may have an "outflow meter" installed at the discretion of the Spencer Town Board and the Sewer Department Superintendent.

(E) Physical Trauma Caused by Third Parties.

(1) Any customer of the Town of Spencer Sewer Department may make written application on forms provided by the Town of Spencer for deduction or adjustment of the sewer bill incurred arising from a physical trauma to the water system at the residence or location of the property owner. To the extent that the Town of Spencer would reduce the bills associated with such causes, the property owner will be required to make assignment of any insurance proceeds or benefits to which the property owner would be entitled from third persons.
(Prior Code, Ch. 21, Art. XVII, §§ 9 and 10) (Am. Ord. 2010-3, passed 4-5-2010) (Am. Res. 2010-7, 11-15-2010)

§ 50.090 BILLING AND COLLECTION.

(A) The owners of property and/or customers served by the Town Sewer System shall be billed monthly at the rate applicable to them.

(B) All charges shall be due and payable on or before the tenth day of the succeeding month. If the charges are not paid on or before day 10 of the month in which they are payable, a collection charge shall be added amounting to 10% of the gross bill.

(C) Other delinquent accounts will be collected in the manner prescribed by the Indiana Code.

(D) All owners of property and/or customers served by the Town Sewer System shall pay a deposit upon connect to sewer services as set forth below:

(1) *Renters.* The Spencer Town Council hereby establishes a requirement for a deposit of $100 for each account that a customer establishes for sewer services. This deposit is held until the account is closed and paid in full. The deposit will not be applied to delinquent payments unless the account is closed.

(2) *Homeowner.* The Spencer Town Council hereby establishes a requirement or a deposit of $100 for each account that a customer establishes for sewer services. This deposit is held until the account is closed and paid in full or until the account holder maintains an excellent payment history (no late fees or disconnect notices) for a period of 12 months, whichever comes first. The deposit will not be applied to delinquent payments unless the account is closed.
(Prior Code, Ch. 21, Art. XIX)

§ 50.091 WASTE HAULER- CHARGES.

(A) Waste shall only be accepted for treatment by the utility if the treatment processes and final effluent are not adversely affected. All haulers shall provide the utility with the names and addresses of the users whose waste is brought for treatment.

(B) The following types of waste may be accepted for treatment by the Town utilities:

(1) Domestic Septage. Domestic septage refers to the waste contained in, or removed from, septic tanks or holding tanks which serve residential homes or other sources which generate only food based waste. Each truckload delivered will be assumed to be a full load unless proven otherwise by the hauler.

(C) Permit and Permit Fees.

(1) A State of Indiana licensed waste hauler requesting authorization to dispose of septage waste shall fill out a permit for such services annually. Each permit will be reviewed by the Town of Spencer Wastewater Treatment Facility Superintendent and approved or denied by the Spencer Town Board.
(2) The fee for such permit shall be the sum of Fifty Dollars ($50.00).

(D) Licensed Waste Hauler and fees.

(1) Any State of Indiana licensed waste hauler may purchase pre-paid tickets from the Spencer Town Clerk Treasurer which authorizes that hauler to dispose of domestic septage.
(2) The ticket will indicate the proposed amount of septage to be disposed and treated and the names and addresses of the property owners from which the septic waste was removed. The ticket must be presented to the staff at the Wastewater Treatment Facility prior to any disposal or treatment of domestic septage.
(3) The Fee for each ticket allowing the disposal of domestic septage shall be a minimum of Thirty Dollars ($30.00) per Five Hundred (500) gallons of septage to be treated and disposed. For each additional One Hundred (100) Gallons to be treated and disposed an additional fee of Five Dollars ($5.00) shall be charged per ticket. The fees for the treatment and disposal of domestic septage shall be charged to the waste hauler who transports the waste to the treatment facility for disposal.

(Ord. 2016-10, passed 10/3/2016)"

§ 50.999 PENALTY.

(A) *General.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *For not installing a water meter.* Any person who uses or continues to use the Sewer System and does not have his or her water usage metered after March 31, 1989 (90 days after the effective date of this subchapter), shall be in violation of this chapter and shall be fined $10 for each violation. Each day a violation exists shall be considered a separate offense. Any person in violation shall pay the monthly sewer rate applicable to that customer in addition to any fines or penalties that apply. (Prior Code, Ch. 21, Art. XVII, § 8)

(C) (1) *Tampering.* No person shall maliciously, willfully, or negligently, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the Spencer Sewer System. Any person who violates this provision shall be subject to immediate arrest under the charge of disorderly conduct.

(2) *Responsibility of owner.* It is the responsibility of each property owner or other person responsible for payment of sewage service charges to promptly advise the town of any changes in the use of a residence, building or lot, or in the number of employees, or in any other activity upon which sewage services are based which would affect the sewage service charges for that residence, building, lot, business or governmental activity. Failure to report promptly will result in a determination by the

Town Council as to when the violation occurred, the total amount of sewage charges due and payable, plus a collection charge of 10% of the gross bill.

(3) *Violations.* Any person found to be violating any provision of this chapter, except division (C) above, and the specific penalty provided for under division (A) above, (the specific penalties under these portions of this chapter shall apply at all times and shall be in addition to any other penalties provided for in this chapter or other provisions of the Town Code) shall be served by the town with written notice stating the nature of the violation and providing for a reasonable time limit for the satisfactory correction of it. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(4) *Fines.* Any person who shall continue any violation beyond the time limit provided for in division (C)(3) above, shall be guilty of an ordinance violation and shall be subject to a fine of $25 for each violation. Each day in which any violation continues or exists shall be deemed a separate offense.

(5) *Liability.* Any person who violates any provisions of this chapter shall become liable to the town for any expense, loss, or damage by reason of the violation including reasonable attorney fees incurred by the town for collection of the account.
(Prior Code, Ch. 21, Art. XVIII)

CHAPTER 51: GARBAGE

Section

51.01 Disposal of garbage

§ 51.01 DISPOSAL OF GARBAGE.

(A) *Responsibility.* Each owner, occupant or other responsible person who uses or occupies any building or premises within the town:

(1) Shall provide and keep covered an adequate number of garbage containers;

(2) Shall convey, or have conveyed all garbage, trash, or like matter, to a lawful disposal site, on a regular basis, at least every 2 weeks; and

(3) Shall not place garbage, trash, or like matter, on any public street.

(B) *Garbage collection vehicles.* Collection vehicles shall not leak or scatter any liquid or solid matter on the streets or alleys.
(Prior Code, Ch. 22, Art. XII)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL REGULATIONS

71. TRAFFIC CONTROL DEVICES

72. GENERAL TRAFFIC REGULATIONS

73. SPORT BICYCLE EQUIPMENT AND OTHER RECREATIONAL VEHICLES

74. PEDESTRIANS

75. PARKING

76. TRAFFIC SCHEDULES

77. PARKING SCHEDULES

CHAPTER 70: GENERAL REGULATIONS

Section

70.01 Purpose
70.02 Definitions
70.03 Powers of Town Council

70.99 Penalty

§ 70.01 PURPOSE.

This title provides for the regulation of vehicular traffic on the streets and alleys of the town; it restricts the operation of trucks on residential streets; it prescribes permit requirements for use of town streets for parades and other purposes; it provides special controls of vehicular traffic under snow emergency conditions; it prescribed penalties for violations thereof; it provides for the control and regulation of vehicular traffic on the public school grounds, which grounds are operated by the Board of Trustees of the Spencer-Owen Community Schools; it effectuates the agreement made between the Town Council of Spencer and the Board of Trustees of the Spencer-Owen Community Schools concerning the enactment and enforcement of the traffic regulations as are necessary for the promotion of safety on the public school grounds; and it adopts a code of vehicular operation for public school grounds, pursuant to recommendation by the Board of Trustees of the Spencer-Owen Community Schools.
(Prior Code, Ch. 16, Art. I)

§ 70.02 DEFINITIONS.

(A) Terms used in this title shall have the meanings prescribed for the terms by the Motor Vehicle Laws of the State of Indiana unless specifically defined as a part of this chapter.

(B) For the purpose of this title, the following definitions shall apply unless the context indicates or requires a different meaning.

ALLEY. A public thoroughfare which affords only secondary means of vehicular access to abutting property and is not over 20 feet in width.

AUTHORIZED EMERGENCY VEHICLE. Includes vehicles of the Fire Territory, the Police Department, ambulances and the other emergency vehicles as are designated or authorized by the Town Marshal or the Superintendent of Streets.

INDIANA MANUAL. The *Indiana Manual on Uniform Traffic Control Devices for Streets and Highways*.

OFFICIAL TIME STANDARD. Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in the town.

OFFICIAL TRAFFIC CONTROL DEVICES. All signs, signals, markings and devices consistent with this chapter, placed or erected by authority of the Town Council for the purpose of regulating, warning or guiding traffic.

PARK. When prohibited ,means the standing of a vehicle, whether occupied or not, otherwise

than temporarily for the purpose of and while actually engaged in loading or unloading.

PEDESTRIAN. Any person afoot.

PERSON. Every individual, firm, partnership, association, company or corporation.

POLICE OFFICER. The Town Marshal and Deputy Marshals and the other authorized personnel to direct or regulate traffic or to make arrests for violations of traffic regulations.

RESIDENTIAL STREET. All town streets, alleys, and culverts within the corporate limits other than ***TRUCK ROUTES***.

SCHOOL GROUNDS. Any property for which the Board of Trustees of the Spencer-Owen Community Schools is trustee and which is devoted to public school use.

STREETS. Any reference in this Traffic Code to a specific street, avenue or drive shall be deemed to be a reference to the exact and correct name of the street so long as the name before the word ***STREET***, ***AVENUE*** or ***DRIVE***, as the case may be, is correctly stated.

TRAFFIC. Includes pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any street for the purpose of travel.

TRAFFIC OFFICER. A special police officer with authority to issue citations for parking violations and to control traffic under special conditions as assigned by the Town Marshal.

TRUCK. Any vehicle that has more than 2 rear wheels, or more than 1 axle, or has an empty vehicle weight of more than 5,000 pounds.

TRUCK ROUTE. All state highways or routes within the town corporate limits duly designated as a truck route.
(Prior Code, Ch. 16, Art. II)

§ 70.03 POWERS OF TOWN COUNCIL.

The Indiana Code provides the Town Council with the authority to:

(A) Control and regulate the standing or parking of vehicles upon any street, alley or other public area, within the town;

(B) Regulate the flow of traffic by means of traffic control signals;

(C) Designate particular streets as 1-way streets and require all vehicles to move in 1 specific direction;

(D) Regulate the speed of vehicles on the streets, alleys or public places, within the town;

(E) Designate any street as a through street and require that all vehicles stop before entering or crossing the street;

(F) Designate any intersection as a stop intersection and require that all vehicles stop before entering or crossing the street;

(G) Enact the traffic regulations pertinent to school grounds which the Board of Trustees of the

Spencer-Owen Community Schools may recommend from time to time;

(H) Direct police officers to enforce traffic regulations on school grounds and make arrests for violations thereof; and

(I) Prescribe penalties for persons violating the provisions of this chapter.
(Prior Code, Ch.16, Art. III)

§ 70.99 PENALTY.

(A) Any person who violates any of the provisions of this title is subject to criminal and civil penalties.

(B) (1) *Fines.* Any person who violates any provision in this title, to which another fine is not specified in another chapter of this title, shall, provided that the alleged violator pay to the Spencer Clerk-Treasurer the sum of $75 or speaks with the Chief Marshal in person and he or she elects to recall the citation, within 7 days of the alleged violation, the alleged violation shall be dismissed. However, after compliance with the 7 day dead line, the alleged violator may within 30 days of the citation's issuance date appeal in writing to the Town Council to reverse the violator's unfavorable decision. A reversal of any town ordinance citation takes a unanimous vote from the Board. All Board decisions are final.

(2) *Payment.* If the fine is not paid within the 7 day time period, additional penalty charges may be accessed and civil remedies shall be sought in the court having jurisdiction. Additional penalties to include reasonable attorney fees and court costs incurred by the town for collection of the account.
(Prior Code, Ch.16, Art. XXI) (Am. Ord. 1984-8, passed 7-16-1984; Am. Ord. 2009-17, passed 9-21-2009)

CHAPTER 71: TRAFFIC CONTROL DEVICES

Section

71.01 Signs and signals
71.02 Specifications
71.03 Obedience to
71.04 Tampering with
71.05 Imitating or interfering with
71.06 Officially presumed

§ 71.01 SIGNS AND SIGNALS.

The town shall place and maintain official traffic control devices when and as required to make effective the provisions of this Traffic Code, and may place and maintain the additional official traffic control devices as it may deem necessary to regulate, warn or guide traffic under this Traffic Code or Indiana Motor Vehicle Laws.
(Prior Code, Ch.16, Art. IV, § 1)

§ 71.02 SPECIFICATIONS.

All traffic control signs, signals and devices shall conform to the *Indiana Manual* and all signs and signals required hereunder for the particular purpose shall, so far as practicable, be uniform as to type and location throughout the town and shall be official traffic control devices.
(Prior Code, Ch. 16, Art. IV, § 2)

§ 71.03 OBEDIENCE TO.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this Traffic Code, unless otherwise directed by a police officer or subject to the exceptions granted to the driver of an authorized vehicle.
(Prior Code, Ch. 16, Art. IV, § 3)

§ 71.04 TAMPERING WITH.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereof, or any other part thereof.
(Prior Code, Ch. 16, Art. IV, § 4) Penalty, see § 70.99

§ 71.05 IMITATING OR INTERFERING WITH.

(A) It shall be unlawful to maintain anywhere in the town any sign, signal, marking or device, other than a traffic sign or signal authorized and erected by the Town Council of Trustees, which purports to be or is an imitation of or resembles an official traffic control device in view of any street or highway; and it shall be unlawful to place or maintain any sign or other article which hides from view any lawful traffic control device.

(B) It shall be unlawful to maintain or operate, in view of any street, any flashing or rotating beacon light.
(Prior Code, Ch. 16, Art. IV, § 5) Penalty, see § 70.99

§ 71.06 OFFICIALLY PRESUMED.

When a traffic control sign, signal, marking or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority.
(Ch. 16, Art. IV, § 6)

CHAPTER 72: GENERAL TRAFFIC REGULATIONS

Section

General Regulations

72.01 Following emergency vehicles
72.02 Firefighting equipment
72.03 Obstructing traffic
72.04 Obstructing view at corners
72.05 Emerging from alley or private driveway
72.06 Driving on sidewalk
72.07 Backing
72.08 No driving on streets closed for repairs
72.09 Railroad crossings
72.10 Operation of noisy vehicles unlawful
72.11 Use of vehicle horns
72.12 Unlawful riding on vehicles
72.13 Human and animal propulsion and devices, and the like
72.14 Operation of human propulsion devices, and the like
72.15 Operation of emergency vehicles
72.16 Snow emergencies
72.17 Parades and other uses of town streets

Rules and Enforcement

72.35 Police Department
72.36 Impoundment of vehicles
72.37 Traffic citations
72.38 Failure to obey citation
72.39 Fire Territory personnel
72.40 Obedience to crossing guards
72.41 Reporting accidents
72.42 Damage to pavements

GENERAL REGULATIONS

§ 72.01 FOLLOWING EMERGENCY VEHICLES.

No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than 1,000 feet or drive or park his or her vehicle within a radius of 2 blocks from the point where the fire apparatus has stopped in answer to a fire alarm.
(Prior Code, Ch. 16, Art. VI, § 1) Penalty, see § 70.99

§ 72.02 FIREFIGHTING EQUIPMENT.

It shall be unlawful for any person to drive over any hose lines or other equipment of the Fire Territory, except in obedience to the direction of a firefighter or police officer.
(Prior Code, Ch. 16, Art. VI, § 2) Penalty, see § 70.99

§ 72.03 OBSTRUCTING TRAFFIC.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.
(Prior Code, Ch. 16, Art. VI, § 3) Penalty, see § 70.99

§ 72.04 OBSTRUCTING VIEW AT CORNERS.

It shall be unlawful to construct or maintain or permit to remain, any fence, sign or other structure or article, or any bushes or other plants, on a corner lot, at any intersection of a street or alley, which obstructs the clear view of the intersection, adjacent street, or any on-coming traffic, at a height of more than 3 feet above the level of the adjacent street pavement.
(Prior Code, Ch. 16, Art. VI, § 4) Penalty, see § 70.99

§ 72.05 EMERGING FROM ALLEY OR PRIVATE DRIVEWAY.

The driver of a vehicle emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway, yielding the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.
(Prior Code, Ch. 16, Art. VI, § 5)

§ 72.06 DRIVING ON SIDEWALK.

The driver of a vehicle shall not drive on or across any sidewalk area, except where there is a permanent or temporary driveway.
(Prior Code, Ch. 16, Art. VI, § 6) Penalty, see § 70.99

§ 72.07 BACKING.

The driver of a vehicle shall not back his or her vehicle unless the movement can be made with reasonable safety and without interfering with other traffic.
(Prior Code, Ch. 16, Art. VI, § 7) Penalty, see § 70.99

§ 72.08 NO DRIVING ON STREETS CLOSED FOR REPAIRS.

Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purposes.
(Prior Code, Ch. 16, Art. VI, § 8) Penalty, see § 70.99

§ 72.09 RAILROAD CROSSINGS.

Whenever any person driving a vehicle approaches a railroad grade crossing within town, he or she shall approach with great caution and, if a train is approaching so near as to constitute a grave danger, the driver of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of the

railroad and shall not proceed until he or she can safely do so.
(Prior Code, Ch. 16, Art. VI, § 9)

§ 72.10 OPERATION OF NOISY VEHICLES UNLAWFUL.

It shall be unlawful and a public nuisance for a person to drive or operate a motor vehicle which makes or emits an unusually loud or unnecessary noise, including but not limited to, the unnecessary racing of motor, or causing the screeching or squealing of tires.
(Prior Code, Ch. 16, Art. VI, § 10) Penalty, see § 70.99

§ 72.11 USE OF VEHICLE HORNS.

Every motor vehicle shall be equipped with a good and audible signaling device or horn in efficient working condition. The signaling device shall be sounded only when necessary to give timely warning of the approach of the vehicle, and it shall be unlawful and a public nuisance for any person to sound his or her signaling device or horn for any purpose other than as a warning of impending danger.
(Prior Code, Ch. 16, Art. VI, § 11)

§ 72.12 UNLAWFUL RIDING ON VEHICLES.

No person shall ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.
(Prior Code, Ch. 16, Art. VI, § 12) Penalty, see § 70.99

§ 72.13 HUMAN AND ANIMAL PROPULSION AND DEVICES, AND THE LIKE.

Every person being propelled by any human propulsion device or riding an animal upon a roadway and every person driving any animal-drawn vehicle, shall be subject to the provisions of this subchapter applicable to the driver of any vehicle, except those provisions which by his or her very nature can have no application.
(Prior Code, Ch. 16, Art. VI, § 13)

§ 72.14 OPERATION OF HUMAN PROPULSION DEVICES, AND THE LIKE.

No person upon roller blades, skates, skateboard, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway (excluding road worthy sport bicycle equipments and riders). However, it shall be permissible while crossing a street at an intersection on a crosswalk. When so crossing, the person shall be granted all the rights and shall be subject to all the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street.
(Prior Code, Ch. 16, Art. VI, § 14) Penalty, see § 70.99

§ 72.15 OPERATION OF EMERGENCY VEHICLES.

(A) The driver of an authorized emergency vehicle, when responding to an emergency call, in the pursuit of an actual suspected violator of the law or when responding to but not upon returning from a fire alarm, may disregard regulations governing direction of movement or turning in specified directions as required by this section.

(B) The exemption herein granted to the driver of an authorized emergency vehicle shall apply only when the driver of the vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least 1 lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(C) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall the provisions protect the driver from the consequences of his or her reckless disregard for the safety of others.
(Prior Code, Ch. 16, Art. XIV)

§ 72.16 TRAVEL EMERGENCIES.

(A) *Caution*. When conditions may develop that hinders travel in isolated areas the Owen County Emergency Management Director may issue a Cause (color-white.) No travel restrictions have been placed in effect, but citizens should be alert to changing conditions.

(B) *Advisory*. When conditions develop that may hinder routine travel or activities may be restricted in areas because of a hazardous situation the Owen County Emergency Management Director may issue an Advisory (color-yellow.) No travel restrictions have been placed in effect, but citizens should be alert to changing conditions. Schools and businesses may begin to implement their emergency actions plans.

(C) Declaration of travel emergency. When the Owen County Emergency Management Director issues a Watch (color-orange) or Warning (color-red) for Owen County, pursuant to the terms and conditions of the Declarations of Transportation Emergencies Ordinance of Owen County, a travel emergency is also declared for the Town of Spencer.

(D) *Restrict driving.*

(1) WATCH. When a Watch is issued all persons are restricted to essential travel only, such as to and from work, to obtain medical care, to obtain supplies of food or fuel, to seek shelter, or the travel of emergency vehicles and emergency workers engaged in emergency operations. The broadcast of such declaration, extension, or termination of the Watch shall be by the means established under the Owen County Declarations of Transportation Emergencies Ordinance.

(2) WARNING. When a Warning is issued all persons are prohibited from travel on the roadways with the exception of necessary emergency or critical occupations personnel while engaged in necessary emergency or critical occupations operations. The broadcast of such declaration, extension, or termination of the Warning shall be by the means established under the Owen County Declarations of Transportation Emergencies Ordinance.

(E) *Parking Prohibition.*

(1) When a Watch or Warning is~~,~~ each person shall remove his or her parked vehicle from the street to facilitate snow removal, debris removal, access for emergency vehicles, evacuation or other emergency purpose. This action must be done within four (4) hours of the original issue of the Watch or Warning.

(F) *Removal of stalled or parked vehicles.*

(1) If a vehicle becomes stalled on a roadway for which a parking prohibition is in effect, the person operating the vehicle must take immediate action to have the vehicle removed from the roadway. The person may not abandon the vehicle in the roadway except for the purpose of securing assistance for the time necessary to go to a nearby telephone, garage, or other place of assistance and return without delay.

(2) The Town Marshal shall, when required by the Superintendent of Streets, cause the removal of parked or stalled vehicles from a roadway to the nearest garage or other place of safety, including another place on the roadway, or to a facility maintained by the Town if one of the following apply:

(a) The vehicle is parked on a roadway for which parking prohibition is in effect;

(b) The vehicle is stalled on a roadway for which a parking prohibition is in effect; the vehicle presents a hazard to traffic, snow or debris removal, or emergency operations; and the available evidence does not reasonably suggest that the operator of the vehicle is attempting to remove it.

(c) The vehicle is parked illegally and interferes with snow or debris removal or emergency operations.

(3) If a vehicle is removed under subsection (2), the Spencer Police Department shall provide written notice to the vehicles owner if the Department is able to ascertain the name and the address of the vehicle's owner through registration records or otherwise. The notice shall advise the owner of the fact of removal, the reason for removal, and the place to which the vehicle was removed.

(4) If Spencer Police Department is unable to ascertain the name and address of the vehicle's owner to provide notice under subsection (3), the Department shall, within seventy-two (72) hours of the removal notify the Bureau of Motor Vehicles of the location and description of the vehicle.

(5) To recover a vehicle removed under this section, the owner of the vehicle must present evidence of the person's identity and right to possession of the vehicle to the Spencer Police Department or the towing service that removed the vehicle. In addition, the person must sign a receipt for the return of the vehicle and pay the costs of the removal and any storage fees. The costs and fees constitute a lien on the vehicle under IC 32-33-10.

(6) The Spencer Police Department shall maintain a record of each vehicle removed under this Section. The record must include a description of the vehicle, its license number, the date and time of removal, the place of removal, the place which it was removed, the reason for removal and, if known, the name and address of the owner and/or operator. If a towing service obtains this information on behalf of the Spencer

Police Department, the towing service shall provide the record to the Spencer Police Department

(7) To implement this Section, the Town Marshal and the Superintendent of Streets may enter into any contracts with towing services for the removal and storage of vehicles.

(8) The Town of Spencer, Spencer Police Department or the Street Department, their agents, servants, or assigns, owner or occupant of the property from which a vehicle is removed, authorized towing service, automobile scrap yard, or other contractor are not liable for loss or damage to a motor vehicle removed, stored, or disposed of under this Section.

(G) It shall be the responsibility of the property owner to remove snow from their personal driveways and the sidewalks adjacent to their property. When removing snow, the owner, its agents, servants, or assigns, shall not permit snow to be pushed onto a public thoroughfare.

(Prior Code, Ch. 16, Art. XVI) (Am. Ord. 2013-5 , passed 5-6-2013)

§ 72.17 PARADES AND OTHER USES OF TOWN STREETS.

(A) *Permit required.* It shall be unlawful for any person, club, organization, association, or similar group to hold any meeting, parade, demonstration or exhibition on the public streets without a responsible representative of the organization first securing a permit from the town. A permit shall not be issued by the town unless it determines, in coordination with the Town Marshal, that the proposed activity will not unreasonably interfere with traffic and unless the applicant for the permit shall agree and accept responsibility for the immediate clean up of all litter which may be left on the streets as a result of the activity.

(B) *Bonding/insurance requirements.* If in the town's judgment a bond and/or insurance coverage should be provided by the club, organization or similar group to protect the interest of the town or to guarantee performance of the terms of the permit, the town shall require the applicant to provide such a bond or insurance coverage in a reasonable amount before issuance of the permit.

(C) *Unlawful to leave litter/trash.* It shall be unlawful for any person obtaining a permit to fail to carry out his or her agreement to immediately clean up and dispose of all litter, trash, or other unsanitary materials resulting from use of the street.

(Prior Code, Ch. 16, Art. XVIII) Penalty, see § 70.99

RULES AND ENFORCEMENT

§ 72.35 POLICE DEPARTMENT.

(A) It is the duty of the Town Marshal, or the deputies as are assigned by him or her:

(1) To enforce the Traffic Code of the town, and the state vehicle laws applicable to street traffic in the town;

(2) To enforce all traffic regulations of the town and state vehicle laws as they apply to the school grounds; and

(3) To direct all traffic in person, or by means of visible or audible signal in conformance with the provisions of the Traffic Code, provided, that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, the Town Marshal or the officers as are assigned by him or her may direct traffic as conditions may require notwithstanding the provisions of this Traffic Code.

(B) The Town Marshal is hereby empowered to make and enforce the traffic regulations as are necessary to make effective the provisions of this Traffic Code and to make and enforce temporary regulations to meet emergency traffic conditions.
(Prior Code, Ch. 16, Art. XX, § 1)

§ 72.36 IMPOUNDMENT OF VEHICLES.

Members of the Police Department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and alleys and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, or otherwise parked or stalled so as to constitute an obstruction or hazard to normal traffic. Such an impounded vehicle shall be stored until the owner claims it, given satisfactory evidence of ownership, and pays all applicable fines, costs, towing and storage charges.
(Prior Code, Ch. 16, Art. XX, § 2)

§ 72.37 TRAFFIC CITATIONS.

When a police officer halts a violator other than for the purpose of giving a warning and does not take the person into custody under arrest, may issue to him or her a written ordinance citation containing a notice to answer to the charge against him or her in the appropriate authority by a specific time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation shall forward it in a timely manner through the appropriate channels. Provided that the alleged violator pays to the Spencer Clerk-Treasurer the sum of $75.00 or speaks with the Chief Marshal in person and he or she elects to recall the citation, within 7 days of the alleged violation, the alleged violation shall be dismissed. However, after compliance with the 7-day deadline, the alleged violator may within 30 days of the citations issuance date appeal in writing to the Town Council to reverse their unfavorable decision. A reversal of any Town Ordinance citation takes a unanimous vote form the Board. All Board decisions are final.
(Prior Code, Ch. 16, Art. XX, § 3)(Am. Ord. 2017-14, passed 10-2-2017)

§ 72.38 FAILURE TO OBEY CITATION.

It shall be unlawful for any person to violate his or her written promise after giving the promise to a police officer upon the issuance of a town ordinance citation. Civil remedies and additional cost to the town associated with the collection of the fees may be filed against the violator in accordance with state law.
(Prior Code, Ch. 16, Art. XX, § 4) Penalty, see § 70.99

§ 72.39 FIRE TERRITORY PERSONNEL.

Officers of the Fire Territory, in the absence of a police officer, may direct or assist the police in directing traffic in the event of a fire.
(Prior Code, Ch. 16, Art. XX, § 5)

§ 72.40 OBEDIENCE TO CROSSING GUARDS.

No person shall willfully fail or refuse to comply with any lawful order or direction of a Spencer Police Department police officer, or Fire Territory official, an adult school crossing guard or a member of a school safety patrol while the adult crossing guard or school safety patrol member is engaged in controlling traffic at a school crossing for pedestrians.
(Prior Code, Ch. 16, Art. XX, § 6) Penalty, see § 70.99

§ 72.41 REPORTING ACCIDENTS.

The driver of a vehicle involved in an accident within the limits of the town which results in injury to or death of any person or in property damage to an apparent extent of $1,000 or more, shall immediately and by the quickest means of communication notify the Spencer Police Department of such an accident.
(Prior Code, Ch. 16, Art. XVII)

§ 72.42 DAMAGE TO PAVEMENTS.

(A) *Damage by vehicle operation.* No person shall operate upon any street of the town any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street.

(B) *Damage by burning, and the like.* It shall be unlawful for any person to burn leaves or trash of any kind or to pour salty or waste water, or oil of any description upon paved streets in the town.

(C) *Restoring damaged streets.* All defective conditions made in the streets and alleys of the town by any person for any reason whatsoever shall restore them to their original condition within 15 days after receiving notice to do so from the Clerk-Treasurer.

(D) *Payment for damages.* If repairs are not made as requested by notice from the Clerk-Treasurer, the repairs will be made on order of the Town Council and the costs of making the repairs will be charged to the person causing the damage.
(Prior Code, Ch. 16, Art. XIX) Penalty, see § 70.99

§ 72.99 PENALTY

Unless otherwise specified, any person who violates any section in this chapter shall be subject to a fine of $75.00. Each day that the violation exists shall be considered a separate and distinct offense. Alleged violators of ordinances in this Town Code of Spencer may pay the Spencer Clerk-Treasurer, within 7 days of the alleged violation, the sum required by the citation issued. If the fine is not paid in 7 days, charges shall be filed in the court of competent jurisdiction. Any person who violates any provisions of this chapter shall become liable to the Town for any expense, loss, damage, by reason of the violation including reasonable attorney fees incurred by the Town for collection of the account.
(Ord. 2013-5, passed 5-6-2013) (Am. Ord. 2017-14, passed 10-2-2017)

CHAPTER 73: SPORT BICYCLE EQUIPMENT AND OTHER RECREATIONAL VEHICLES

Section

General Provisions

73.01 Purpose
73.02 Definitions
73.03 Voluntary registration program
73.04 Impoundment of sport bicycle equipments

Riding of Sport Bicycle Equipments/Motorized Sport Bicycle Equipments

73.20 Applicability of traffic regulations
73.21 Obedience to signals
73.22 Operators of motorized sport bicycle equipments
73.23 Motorized sport bicycle equipments prohibited on sidewalks
73.24 Pedestrians have right-of-way
73.25 Riding on sidewalks in business areas prohibited
73.26 Emerging from alley or driveway
73.27 Riding on a sport bicycle equipment
73.28 Riding in a group
73.29 Clinging to vehicles
73.30 Carrying articles while riding

Safety Equipment Required

73.45 Brakes
73.46 Lights and reflectors
73.47 Audible signals

Enforcement

73.60 Parents/guardians
73.61 Applicability

73.99 Penalty

Statutory reference:

Extreme sport equipments and motorized sport bicycle equipments, see I.C. 9-21-11 and I.C. 34-6-2-44.6

GENERAL PROVISIONS

§ 73.01 PURPOSE.

This chapter establishes a program for the voluntary registration of sport bicycle equipments and motorized sport bicycle equipments; it requires proper safety equipment; and it regulates and controls the usage of sport bicycle equipments and motorized sport bicycle equipments in the interest of safety. (Prior Code, Ch. 18, Art. I)

§ 73.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

SPORT BICYCLE EQUIPMENT. Any foot propelled vehicle, irrespective of the number of wheels in contact with the ground. The use of skateboards are prohibited.

MOTORIZED SPORT BICYCLE EQUIPMENT. Any sport bicycle equipment with operable pedals which may be propelled by human power or an internal combustion engine or a battery powered motor, or both and when powered by an internal combustion engine having a rating of no more than 1.5 brake horsepower and a cylinder capacity not exceeding 50 cubic centimeters, an automatic transmission, and a maximum design speed of no more than 25 mph on a flat surface. Any motorized sport bicycle equipment must have a minimum height of 24 inches in height from the ground for the seat or handlebar when no seat is present.
(Prior Code, Ch. 18, Art. II)

§ 73.03 VOLUNTARY REGISTRATION PROGRAM.

The owner of any sport bicycle equipment or motorized sport bicycle equipment living within the corporate limits of the town is urged and encouraged to register his or her sport bicycle equipment or motorized sport bicycle equipment with the Town Marshal. This is an entirely voluntary program and its objective is to provide a means of identification should the sport bicycle equipment or motorized sport bicycle equipment be lost or stolen.
(Prior Code, Ch. 18, Art. III)

§ 73.04 IMPOUNDMENT OF SPORT BICYCLE EQUIPMENT.

(A) Members of the Police Department are hereby authorized to impound any sport bicycle equipment or motorized sport bicycle equipment when the owner thereof shall have violated any of the regulations herein and the impoundment is ordered for a determinate period of time as a part of the penalty for violation of this chapter.

(B) An impounded sport bicycle equipment or motorized sport bicycle equipment shall be stored until redeemed or otherwise released.

(C) Any sport bicycle equipment or motorized sport bicycle equipment left in impoundment for 6 months shall be disposed of by the police.
(Prior Code, Ch. 18, Art. VII) Penalty, see § 73.99

RIDING OF SPORT BICYCLE EQUIPMENT/MOTORIZED SPORT BICYCLE EQUIPMENT

§ 73.20 APPLICABILITY OF TRAFFIC REGULATIONS.

Persons riding sport bicycle equipments or motorized sport bicycle equipments upon a roadway shall be entitled to all the rights and shall be subject to all the duties applicable to the driver of a vehicle, except as changed by the provisions of this subchapter, and except as to those provisions of laws and other

regulations which by their nature have no application.
(Prior Code, Ch. 18, Art. IV, § 1)

§ 73.21 OBEDIENCE TO SIGNALS.

Any person operating a sport bicycle equipment or motorized sport bicycle equipment shall obey the instructions of official traffic control signals, posted speed limits, signs, and other control devices applicable to vehicles unless otherwise directed by a police officer.
(Prior Code, Ch. 18, Art. IV, § 2)

§ 73.22 OPERATORS OF MOTORIZED SPORT BICYCLE EQUIPMENT.

A motorized sport bicycle equipment shall not be operated by any person under the age of 15 years.
(Prior Code, Ch. 18, Art. IV, § 3) Penalty, see § 73.99

§ 73.23 MOTORIZED SPORT BICYCLE EQUIPMENT PROHIBITED ON SIDEWALKS.

No person shall operate or ride a motorized sport bicycle equipment on the sidewalks of the town.
(Prior Code, Ch. 18, Art. IV, § 4) Penalty, see § 73.99

§ 73.24 PEDESTRIANS HAVE RIGHT-OF-WAY.

Whenever any person is riding a sport bicycle equipment upon sidewalks, the person shall yield the right-of-way to any pedestrian.
(Prior Code, Ch. 18, Art. IV, § 5)

§ 73.25 RIDING ON SIDEWALKS IN BUSINESS AREAS PROHIBITED.

No person shall ride a sport bicycle equipment on a sidewalk in front of a business establishment, government office, or on the sidewalks around the County Courthouse.
(Prior Code, Ch. 18, Art. IV, § 6) Penalty, see § 73.99

§ 73.26 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a sport bicycle equipment/motorized sport bicycle equipment emerging from an alley or driveway, shall upon approaching a sidewalk extending across the alley or driveway, yield the right-of-way to all pedestrians approaching on the sidewalk, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.
(Prior Code, Ch. 18, Art. IV, § 7)

§ 73.27 RIDING ON AN SPORT BICYCLE EQUIPMENT.

(A) A person propelling a sport bicycle equipment/motorized bicycle shall not ride other than upon the permanent and regular seat attached thereto, nor carry any other person upon the bicycle or motorized bicycle otherwise than upon a firmly attached regular seat thereon, nor shall any person ride upon a bicycle or motorized bicycle in any manner other than as stated above.

(B) No bicycle or motorized bicycle shall be used to carry more persons at 1 time than the number for which it is designed and equipped.
(Prior Code, Ch. 18, Art. IV, § 8) Penalty, see § 73.99

§ 73.28 RIDING IN A GROUP.

Persons riding bicycles or motorized bicycles upon a roadway shall not ride more than 2 abreast except on paths or parts of roadways set aside for the exclusive use of bicycles or motorized bicycles.
(Prior Code, Ch. 18, Art. IV, § 9) Penalty, see § 73.99

§ 73.29 CLINGING TO VEHICLES.

Any person upon any bicycle, motorized bicycle, coaster, roller skates or toy vehicle shall not attach the same or himself or herself to any bicycle upon a roadway.
(Prior Code, Ch. 18, Art. IV, § 10) Penalty, see § 73.99

§ 73.30 CARRYING ARTICLES WHILE RIDING.

No person riding a bicycle or motorized bicycle shall carry any package, bundle or article which prevents the rider from keeping both hands upon the handle bars.
(Prior Code, Ch. 18, Art. IV, § 11) Penalty, see § 73.99

SAFETY EQUIPMENT REQUIRED

§ 73.45 BRAKES.

Every bicycle and motorized bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, and clean pavement.
(Prior Code, Ch. 18, Art. V, § 1)

§ 73.46 LIGHTS AND REFLECTORS.

Every bicycle and motorized bicycle operated on a public highway or on a street within the town from 1/2 hour after sunset until 1/2 hour before sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and with a lamp on the rear; except that a red reflector may be used in lieu of a rear light.
(Prior Code, Ch. 18, Art. V, § 2)

§ 73.47 AUDIBLE SIGNALS.

No person shall ride a bicycle or motorized bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that no bicycle or motorized bicycle shall be equipped with, nor shall any person use upon a bicycle or motorized bicycle any siren or whistle.
(Prior Code, Ch. 18, Art. V, § 3) Penalty, see § 73.99

ENFORCEMENT

§ 73.60 PARENTS/GUARDIANS.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any provisions of this chapter.
(Prior Code, Ch. 18, Art. VI, § 1) Penalty, see § 73.99

§ 73.61 APPLICABILITY.

These provisions of this chapter shall apply whenever a bicycle or motorized bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles or motorized bicycles, subject to those exceptions stated herein.
(Prior Code, Ch. 18, Art. VI, § 2)

§ 73.99 PENALTY.

Any person who violates any section in this chapter shall be subject to impoundment and a fine of $75.00. Alleged violators of ordinances in the Town Code of Spencer may pay the Spencer Clerk-Treasurer, within 7 days of the alleged violation, the sum required by the citation issued. If the fine is not paid in 7 days, charges shall be filed in the court having jurisdiction over the alleged violation. Any person who violates any provisions of this chapter shall become liable to the town for any expense, loss or damage by reason of the violation including reasonable attorney fees incurred by the town for collection of the account.
(Prior Code, Ch. 18, Art. VIII) (Am. Ord. 2017-14, passed 10-2-2017)

CHAPTER 74: PEDESTRIANS

Section

74.01 Crossing streets
74.02 Jaywalking

§ 74.01 CROSSING STREETS.

(A) Pedestrians shall be subject to traffic control signals at intersections where the signals are operating. When traffic control signals are not operative or in place, the driver of a vehicle shall yield the right-of-way to pedestrians crossing the roadway within the crosswalk.

(B) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right-of-way.
(Prior Code, Ch. 16, Art. XV, § 1) Penalty, see § 10.99

§ 74.02 JAYWALKING.

Every pedestrian crossing a roadway at any point other than within the crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
(Prior Code, Ch. 16, Art. XV, § 2)

CHAPTER 75: PARKING

Section

General Provisions

75.001 Purpose
75.002 Definitions
75.003 Violations

Parking Prohibitions

75.020 Parking prohibited at all times
75.021 Alley parking
75.022 Obstructions of traffic
75.023 Standing vehicles
75.024 Parking temporarily
75.025 Vehicle to occupy single parking space
75.026 Parking for sale, repair or future repair
75.027 Private parking signs

Vehicle Parking Restrictions

75.040 Large and heavy vehicles
75.041 Equipment parking
75.042 Parking for repair; construction work

Delivery Truck Parking

75.060 Use of alleys, off-street and loading zones
75.061 Truck loading; unloading in metered zones
75.062 Special truck parking permits

Parking Positions

75.080 Parallel parking
75.081 Angle parking

Parking Zones

75.095 No parking zones
75.096 Limited parking zones
75.097 Loading zones
75.098 Bus zones
75.099 No truck or camper parking zones

Parking During Snow Emergencies

75.115 Declaration of snow emergency
75.116 Parking may be banned
75.117 Removal of parked vehicles

Parking Meters

75.130 Parking meter zones
75.131 Designation of parking spaces
75.132 Installation of parking meters
75.133 Permits for parking in metered spaces
75.134 Use of funds

75.999 Penalty

Cross-reference: *See Business survey and enforcement of parking accessibility, § 92.070*

GENERAL PROVISIONS

§ 75.001 PURPOSE.

This chapter provides for the regulation of vehicle parking within the town; it prohibits parking under certain conditions; it provides for the installation and use of parking meters and the issuance of parking permits and it provides for penalties for the violation thereof.
(Prior Code, Ch. 17, Art. I)

§ 75.002 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

(B) Terms used in this chapter shall have the meanings prescribed for the terms by the motor vehicle laws of the State of Indiana unless specifically defined as a part of this chapter.

CROSSWALK. That portion of a roadway ordinarily included within the prolongation or connection of lateral lines of sidewalks at intersections whether marked by lines as such or not any portion of a roadway distinctly indicated for pedestrian crossing by lines of other markings on the surface of the roadway.

HANDICAP PARKING AREA. An area designated as a parking area accessible to and for the use of a person with a handicap.

HOUSE CAR. Every vehicle, with or without motive power, equipped exclusively for living quarters for persons traveling upon highways.

OPERATOR. Any person who operates a vehicle as the owner thereof, or as the agent, employee or permitee of the owner, or is in actual physical control of the vehicle.

PARK or ***PARKING.*** The standing of a vehicle, whether occupied or not, upon the street otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience of traffic regulations, signs or signals or an involuntary stopping of the vehicle.

PARKING METER. Any mechanical device or meter not inconsistent with this section. Each parking meter installed shall indicate by proper legend the legal parking time established by the town

and when operated shall at all times indicate the balance of the legal parking time, and at the expiration of the period shall indicate illegal or overtime parking.

PARKING METER SPACE. Any space within the parking and which is designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meter.

PARKING METER ZONES. Any street section upon which parking meters are installed and in operation.

PERSON. An individual, firm, partnership, company or corporation.

STOP, STOPPING or ***STANDING.*** When prohibited, means any stopping or standing of vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, traffic control sign or signal.

TRAFFIC OFFICER. A special police officer with authority to issue citations for parking violations and to control traffic under special conditions when assigned to such duty by the Town Marshal.

TRUCK. A vehicle that has more than 2 rear wheels, more than 1 axle or has an empty weight of more than 5,000 pounds.
(Prior Code, Ch. 17, Art. II) (Am. Ord. 2009-18, passed 9-21-2009)

§ 75.003 VIOLATIONS.

No person shall:

(A) Cause, allow, permit or suffer any vehicle registered in the name of, or operated by the person to park overtime, or beyond the period of legal parking time established for any parking meter zone, or deposit in any parking meter any coin for the purpose of parking beyond the maximum legal parking time for the particular parking meter zone;

(B) Permit any vehicle to remain or be placed in any parking space adjacent to any parking meter while the meter is displaying a signal indicating that the vehicle occupying the parking space has already been parked beyond the period prescribed for the parking space;

(C) Park any vehicle across any line or marking of a parking meter space or in such position that the vehicle shall not be entirely within the area designated by the lines or markings;

(D) Deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter; and

(E) Deposit or cause to be deposited in any parking meter any slugs, device or metal substance, or other substitute for lawful coins.
(Prior Code, Ch. 17, Art. IX, § 9) Penalty, see § 75.999

PARKING PROHIBITIONS.

§ 75.020 PARKING PROHIBITED AT ALL TIMES.

No person shall stop, stand or park a vehicle at any time for any purpose in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer, traffic control sign or signal:

(A) Within an intersection;

(B) On any grassy area between a curb and sidewalk;

(C) On a crosswalk;

(D) Between a safety zone and the adjacent curb or within 20 feet of points on the curb immediately opposite the ends of a safety zone, unless the Police Department shall indicate a different length by proper sign;

(E) Within 25 feet from the intersection of curb lines;

(F) Within 30 feet upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of the roadway;

(G) Within 20 feet of the driveway entrance to any fire station;

(H) Within 15 feet of any fire hydrant;

(I) In front of any public or private driveway;

(J) On a sidewalk;

(K) Alongside of or opposite any street excavation or obstruction when the stopping, standing or parking would obstruct traffic;

(L) Alongside any curb painted yellow or red by the town;

(M) On the roadway side of any parked vehicle, commonly known as “double parking”; and

(N) Upon any bridge or under any elevated structure.
(Prior Code, Ch. 17, Art. III, § 1) Penalty, see § 75.999

§ 75.021 ALLEY PARKING.

No person shall park any vehicle in any alley except for a period not exceeding 30 minutes while loading or unloading the vehicle.
(Prior Code, Ch. 17, Art. III, § 2) Penalty, see § 75.999

§ 75.022 OBSTRUCTIONS OF TRAFFIC.

(A) No person shall park any vehicle upon a street or alley in such a manner or under such conditions so as to leave available less than 10 feet of the width of the roadway of the street or alley free for the

movement of vehicular traffic.

(B) No person shall stop, stand or park a vehicle within an alley or street in such position as to block the driveway entrance to any abutting property.
(Prior Code, Ch. 17, Art. III, § 3) Penalty, see § 75.999

§ 75.023 STANDING VEHICLES.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key, or when standing upon any perceptible grade, without effectively setting the brakes thereon and turning the front wheels to the curb or side of the roadway.
(Prior Code, Ch. 17, Art. III, § 4) Penalty, see § 75.999

§ 75.024 PARKING TEMPORARILY.

The Town Marshal is hereby authorized to erect or cause to be erected, temporary signs indicating no parking upon any street when the parking would interfere with traffic or create a hazardous situation. When the signs are erected indicating "No Parking" upon any street, no person shall park a vehicle in any such designated area.
(Prior Code, Ch. 17, Art. III, § 5) Penalty, see § 75.999

§ 75.025 VEHICLE TO OCCUPY SINGLE PARKING SPACE.

It shall be unlawful for any person to park a vehicle in any designated parking space so that any part of the vehicle occupies more than 1 space or protrudes beyond the official marking on the street or curb designating the space.
(Prior Code, Ch. 17, Art. III, § 6) Penalty, see § 75.999

§ 75.026 PARKING FOR SALE, REPAIR OR FUTURE REPAIR.

No person shall park a vehicle upon any roadway in the town for the principal purpose of:

(A) Displaying the vehicle for sale;

(B) Washing, greasing or repairing the vehicle; or

(C) Holding or storing a vehicle for future repair in a garage, body shop or other facility used for the repair, painting or other work on vehicles.
(Prior Code, Ch. 17, Art. III, § 7) Penalty, see § 75.999

§ 75.027 PRIVATE PARKING SIGNS.

No person shall place any sign along or on any street or alley or designated any place thereon with the intent to regulate or prevent the parking of vehicles on any street or alley, and the Town Marshal shall cause the signs to be removed.
(Prior Code, Ch. 17, Art. III, § 8) Penalty, see § 75.999

VEHICLE PARKING RESTRICTIONS

§ 75.040 LARGE AND HEAVY VEHICLES.

It shall be unlawful to park tractors, including farm tractors and other farm machinery, trailers and semi-trailers, tank trucks, wreckers, buses, including school and church buses, house cars and trucks having a manufacturer's gross vehicle weight rate of over 10,000 pounds, or any vehicle in excess of 21 feet in length, or having a height in excess of 7 feet 6 inches, or a width in excess of 7 feet on any public street in the town for a period in excess of 2 hours during any 24 hour period.
(Prior Code, Ch. 17, Art. IV, § 1) Penalty, see § 75.999

§ 75.041 EQUIPMENT PARKING.

Except for equipment required for immediate and emergency repair of public utilities, it shall be unlawful for any equipment or machinery, whether self-propelled or towed, to be permitted to stand or be parked on the public streets of the town without first obtaining the written permission and consent of the Town Marshal to do so.
(Prior Code, Ch. 17, Art. IV, § 2) Penalty, see § 75.999

§ 75.042 PARKING FOR REPAIR; CONSTRUCTION WORK.

(A) The Town Marshal shall have authority to grant permission to persons who can show a compelling necessity for parking temporarily upon the public streets while engaged in repair operations or construction activities for a limited period of time at a specifically designated site.

(B) Service trucks may be parked on the public streets, if needed, while operators are engaged in the repair or service of utilities in places of residence or business, if no suitable off-street space is available adjacent to the property.
(Prior Code, Ch. 17, Art. IV, § 3) Penalty, see § 75.999

DELIVERY TRUCK PARKING

§ 75.060 USE OF ALLEYS, OFF-STREET AND LOADING ZONES.

(A) For the safety and protection of motorists and pedestrians, trucks, delivering goods, materials and merchandise shall use the alleys, off-street areas and the marked “Loading Zones” to the maximum extent while conducting loading and unloading operations.

(B) The operator of each delivery truck shall complete his or her unloading and/or loading operations in the shortest possible time in order to provide space for other delivery vehicles and to refrain from blocking the alleys and truck loading zones for a longer period of time than is absolutely necessary.
(Prior Code, Ch. 17, Art. V, § 1)

§ 75.061 TRUCK LOADING; UNLOADING IN METERED ZONES.

Operators delivering goods, materials and merchandise to business establishments in the metered zone of the town shall park at the angle specified by the parking area markings and shall deposit the coins in the meter as are required by this chapter.
(Prior Code, Ch. 17, Art. V, § 2) Penalty, see § 75.999

§ 75.062 SPECIAL TRUCK PARKING.

(A) The Town Marshal is authorized to allow temporary parking for a limited period of time to operators delivering goods, materials and merchandise and who need to back into a metered parking space or the parallel park to load or unload goods.

(B) Operators must deposit the appropriate amount of coins in the meters to cover every metered space that they are occupying.

PARKING POSITIONS

§ 75.080 PARALLEL PARKING.

Except where angle parking is permitted, a vehicle stopped or parked upon a roadway shall be stopped or parked with the curb side wheels of the vehicle parallel with and within 12 inches of the curb or edge of the roadway.
(Prior Code, Ch. 17, Art. VI, § 1)

§ 75.081 ANGLE PARKING.

(A) Vehicles shall be parked at an angle to the curb, as marked on the roadway on those streets listed in Chapter 77, Parking Schedule I, attached hereto and made a part hereof.

(B) It shall be unlawful for any person to angle park any vehicle which has a trailer attached to it or any vehicle which protrudes beyond marking.
(Prior Code, Ch. 17, Art. VI, § 2) Penalty, see § 75.999

PARKING ZONES

§ 75.095 NO PARKING ZONES.

(A) The streets described in Chapter 77, Parking Schedule II, attached hereto and made a part hereof, are designated no parking zones.

(B) When appropriate signs conforming to the requirements of the Traffic Code are erected, no person shall park a vehicle on the side of the street at the times designated in Chapter 77, Parking Schedule I.
(Prior Code, Ch. 17, Art. VII, § 1) Penalty, see § 75.999

§ 75.096 LIMITED PARKING ZONES.

(A) *Streets.*

(1) The streets described in Chapter 77, Parking Schedule III, attached hereto and made a part hereof, are designated limited parking zones.

(2) When appropriate signs conforming to the requirements of this Traffic Code are erected, no person shall park a vehicle on the side of the street or for any continuous period of time longer than designated in Chapter 77, Parking Schedule III. The limited parking zones may or may not be regulated by parking meters as designated in the schedule.

(3) When a towing zone, or tow-in zone sign is posted, any person who parks a vehicle in violation of the posted Tow-In Zone may be towed away by the Spencer Police Department. If the Spencer Police Department has a vehicle towed away, it shall be at the owner's expense and without cost or liability to the town.

(B) *Municipal Building parking lot.* Parking on the Municipal Building lot located at the northeast corner of West Street and Franklin Street is limited as follows:

(1) One hour parking from 6:00 a.m. to 6:00 p.m. Monday through Friday for the conduct of official business in the Municipal Building;

(2) To persons employed in the Municipal Building displaying a permit authorizing parking on the lot only; and

(3) To persons attending public meetings held in the Municipal Building for the duration of the public meetings.
(Prior Code, Ch. 17, Art. VII, § 2)

§ 75.097 LOADING ZONES.

(A) The streets described in Chapter 77, Parking Schedule IV, attached hereto and made a part hereof, are designated as loading zones.

(B) When appropriate signs conforming to the requirements of this Traffic Code are erected, no person shall stop, stand or park a vehicle for a longer period of time than is necessary for the expeditious loading or unloading of passengers, or for the loading, unloading, delivery or pickup of materials or merchandise, in any place designated and marked as a loading zone. In no case shall the stop for loading and unloading of materials exceed a total of 30 minutes.
(Prior Code, Ch. 17, Art. VII, § 3)

§ 75.098 BUS ZONES.

The streets described in Chapter 77, Parking Schedule V, attached hereto and made a part hereof, are designated as a bus zone. When appropriate signs conforming to the requirements of this Traffic Code are erected, no person shall stop, stand or park a vehicle other than a bus in a bus zone or a taxi in a taxi zone as so designated in the schedule.
(Prior Code, Ch. 17, Art. VII, § 4)

§ 75.099 NO TRUCK OR CAMPER PARKING ZONES.

(A) The streets described in Chapter 77, Parking Schedule VI, attached hereto and made a part hereof are designated no truck or camper parking zones.

(B) When appropriate signs conforming to the requirements of this Traffic Code are erected, no person shall park a truck or camper on the side of the street indicated by the schedule.
(Prior Code, Ch. 17, Art. VII, § 5)

§ 75.100 HANDICAP PARKING

No person shall cause, permit, encourage, aid, assist, allow or engage in the location of a parked motor vehicle within any area designated as a handicapped parking area, without the display of either (1) a valid accessible parking registration plate or (2) a valid accessible parking placard.
(Ord. 2009-18, passed 9-21-2009)

PARKING DURING SNOW EMERGENCIES

§ 75.115 DECLARATION OF SNOW EMERGENCY.

When snow reaches a depth of 4 inches or more, a “Snow Emergency” is automatically declared.
(Prior Code, Ch. 17, Art. VIII, § 1)

§ 75.116 PARKING MAY BE BANNED.

(A) When snow emergency conditions exist or are anticipated, each person should remove his or her parked vehicle from the street to facilitate snow removal operations.

(B) The Superintendent of Streets is authorized to ban parking on those streets where it is necessary to remove the snow to the curb to provide for drainage and for the safe movement of traffic.
(Prior Code, Ch. 17, Art. VIII, § 2)

§ 75.117 REMOVAL OF PARKED VEHICLES.

(A) The Town Marshal shall, when required by the Superintendent of Streets, cause the removal of parked or stalled vehicles which impede the effective removal of snow.

(B) If the owner of the vehicle fails to move it when so requested by an officer of the Police Department, the officer shall have the vehicle towed away at the owners expense and without any liability or cost to the town.
(Prior Code, Ch. 17, Art. VIII, § 3)

PARKING METERS

§ 75.130 PARKING METER ZONES.

The street and/or municipal parking lots described in Chapter 77, Parking Schedule VII, attached hereto and made a part hereof, are designated as parking meter zones. It shall be unlawful to park any vehicle in any unmarked or unmetered spaces, as provided for in §§ 75.131 and 75.132, within the parking meter zones as described in Chapter 77, Parking Schedule VII.
(Prior Code, Ch. 17, Art. IX, § 1) Penalty, see § 75.999

§ 75.131 DESIGNATION OF PARKING SPACES.

(A) The Town Marshal shall cause to be marked off individual parking spaces in the parking meter zones by lines painted or durably marked on the curbing or surface of the street.

(B) At each space so marked off it shall be unlawful to park any vehicle in such a way that the vehicle is not entirely within the limits of the space designated.
(Prior Code, Ch. 17, Art. IX, § 2) Penalty, see § 75.999

§ 75.132 INSTALLATION OF PARKING METERS.

The Town Marshal shall cause parking meters to be installed upon the curb or sidewalk immediately adjacent to the parking spaces not more than 2 feet from the curb nor more than 4 feet from the front line of the parking space as indicated, and the Town Marshal shall be responsible for the regulation, control, maintenance and use of the parking meters. Each device shall be so set as to display the signal showing legal parking upon the deposit of the appropriate coin or coins.
(Prior Code, Ch. 17, Art. IX, § 3)

§ 75.133 PERMITS FOR PARKING IN METERED SPACES.

(A) *Parking permits.*

(1) Persons may apply to the Town Marshal for a special permit to park a vehicle in individual parking spaces where a parking meter has been installed without depositing coins in any meter.

(2) The Town Marshal shall have the discretionary authority to grant a permit to persons at the rate of $10 per month. The fee shall be deposited into the Parking Meter Fund of the town.

(3) The Town Marshal shall provide for the clear identification of vehicles covered by permits issued under division (A)(2) above.

(4) Parking permits which are valid at the time this chapter becomes effective shall continue to be valid until expiration.

(B) *Authorized parking permit areas.*

(1) All permits issued shall be valid for parking in a metered zone without depositing coins in the parking meter only in those metered parking spaces as specified by Chapter 77, Parking Schedule IX, attached hereto and made a part thereof.

(2) Parking permits are non-refundable.
(Prior Code, Ch. 17, Art. IX, § 6)

§ 75.134 USE OF FUNDS.

The coins deposited in parking meters shall be used to defray the expense of proper regulation of traffic upon the public streets of the town to provide for the cost of supervision, regulation and control of the parking of vehicles in parking meter zones; and to cover the cost of purchase, supervision, protection, inspection, installation, operation, maintenance, control and use of parking meters, and to repair and maintain streets and any other lawful expense designated by the Town Council.
(Prior Code, Ch. 17, Art. IX, § 7)

§ 75.999 PENALTY.

(A) (1) Any person who violates the provisions of section §75.130 of this chapter and any person who aids, abets or assists therein shall, upon conviction thereof, be subject to a fine of not less than $5 and not exceeding $25, plus additional penalties to include reasonable attorney fees and court costs incurred by the town for collection of the account.

(2) Any person who violates the provisions of this chapter, with the exception of (1) above, and any person who aids, abets, or assists therein shall, upon conviction thereof, be subject to a fine of $75.00, plus additional penalties to include reasonable attorney fees and court costs incurred by the town for collection of the account.

(B) (1) Any vehicle found on a public street, road or alley, the owner or operator of which has been cited for violation of this chapter, and which violation remains unadjudicated and outstanding for a period of 3 or more months, may be impounded by an officer of the Police Department and ordered towed away.

(2) When a vehicle is impounded and towed under division (B)(1) above, the owner of the vehicle shall be responsible and liable for all towing and storage costs or charges and the town shall have no liability for any cost or charge.

(3) A vehicle impounded under division (B)(1) above shall remain impounded and may not be released by the town unless and until all outstanding and unadjudicated violations of this chapter for which the vehicle has been cited are fully adjudicated and any fines assessed or owing are fully paid.

(4) When a motor vehicle is impounded and towed under this section, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number and license plate year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from location towed to, reason for towing and the name of the officer authorizing the tow.
(Prior code, Ch. 17, Art. XI) (Am. Ord. 2009-18, passed 9-21-2009)

CHAPTER 76: TRAFFIC SCHEDULES

Schedule

I. State speed limits
II. School speed zones
III. Truck routes
IV. Stop intersections
V. Multiple stop intersections
VI. Yield intersections
VII. Signalized intersections
VIII. One way streets and alleys
IX. Restricted turn intersections
X. Restricted turns on red at signalized intersections
XI. Through on red limited

SCHEDULE I: STATE SPEED LIMITS.

(A) *State speed laws applicable.* The Indiana Motor Vehicle Laws regulating the speed of vehicles shall be applicable upon the streets within this town; except as this Traffic Code, as authorized by the Indiana Motor Vehicle Laws, hereby declares and determines upon the basis of an engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas. In this event, it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared in this schedule when signs are in place giving notice thereof.

(B) *Increasing or decreasing.* It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by the Indiana Motor Vehicle Laws upon the streets listed in Schedule I, attached hereto and made a part hereof, is greater or less, as specified in Schedule I that is necessary for the reasonable or safe operation of vehicles thereon and it is hereby declared that the maximum speed limit shall be as herein designated when signs are erected giving notice thereof.

(C) *School speed zones.* It is hereby determined that School Speed Zones shall be established as listed in Schedule II, attached hereto and made a part hereof. When appropriate signs are erected on the streets, conforming to the requirements of this Traffic Code, no person shall drive a vehicle at a speed greater than 20 mph, except that the time of the reduced speed limits are confined to periods when children are present.

(D) *Trains.* It shall be unlawful for the engineer or driver of a railroad train or for anyone in charge of any car or train of cars to run, or cause to run, over or across any of the public streets or alleys of the town at a speed in excess often 10 mph.

Street	***From***	***To***	***Posted Speed***
Fifth Avenue	United States 231	School Road	20 mph
Franklin Street	Montgomery Street	Harrison Street	20 mph
Harrison Street	Morgan Street	Jefferson Street	20 mph
Hillside Ave	Hwy 46 West	Fletcher Ave.	25 mph
Jefferson Street	Montgomery Street	Harrison Street	20 mph
Jefferson Street	Park	Taylor	20 mph
Lover's Lane	East	Fletcher	20 mph
Main Street	Morgan Street	Jefferson Street	20 mph
Market Street	Montgomery Street	Harrison Street	20 mph
Market Street	Park	Taylor	20 mph
Montgomery Street	Morgan Street	Jefferson Street	20 mph
Morgan Street	Fairview Avenue	E Corp. Line	40 mph
Park	Franklin Street	Jefferson Street	20 mph
S.R. 46 (West)	W Corp. Line	500 feet W of Hillside Ave	55 mph

S.R. 46 (West)	500 feet west of Hillside	Morgan Street	40 mph
S.R.67, United States 231	West Junction of S.R. 46	630 feet south of the Junction	30 mph
S.R.67, United States 231	West Junction of S.R. 46	Crest Hill Drive	40, 50 and 55 mph
Taylor	Market Street	Jefferson Street	20 mph
Washington Street	Morgan Street	Jefferson Street	20 mph
Circle Street	Rocky Hill Road	Circle Street Ends	5 mph

(Prior Code, Ch.16, Art. V) (Ch. 16, Attachment 1) (Am. Ord. passed 10-11-2003; Am. Ord. 2004-2, passed 5-3-2004; Am. Ord. 2007-3, passed 4-16-2007; Am. Ord. 2011-7, passed 6-6-2011) Penalty, see § 10.99

SCHEDULE II: SCHOOL SPEED ZONES.

Street	***From***	***To***
East Street	Garden Drive	North Street
Garden Drive	Park Avenue	East Street
Harrison Street	Hillside Avenue	North Street
Hillside Avenue	Main Street	Park Avenue
Washington Street	Morgan Street	Tanner Avenue

(Prior Code, Ch. 16, Attachment 2)

SCHEDULE III: TRUCK ROUTES.

(A) *Designated.* The streets described in Schedule III, attached hereto and made a part hereof, are designated as town truck routes when appropriate signs conforming to the requirements of this Traffic Code are erected on the streets.

(B) *Truck prohibitions.*

(1) No person shall drive or operate, or cause to be driven or operated, any truck upon the streets, bridges and culverts within the town, except on designated and marked town truck routes as hereinafter described.

(2) The restrictions as herein above set forth on trucks shall not be applicable to trucks delivering or picking up goods and property at places not located on designated and marked town truck routes, provided the trucks are only operated by the shortest way possible between the designated and marked town truck route and the place of delivery or pickup or as otherwise directed by a police officer. The restriction is not applicable to refuse or garbage trucks regularly operating within the town while in the process of picking up refuse and garbage from the residences and business places within the town, or to school buses while picking up or discharging school children on a regularly scheduled route within the town limits.

Street	***From***	***To***
All state highways	(Appropriate signs are not required to by posted)	
Main Street	Morgan Street	South Corp. Line
West Street	North Corp. Line	Morgan Street

(Prior Code, Ch. 16, Art. VII) (Ch. 16, Attachment 3) Penalty, see § 70.99

SCHEDULE IV: STOP INTERSECTIONS.

(A) *Designated.* The intersections described in Schedule IV hereto and made a part hereof are designated as stop intersections.

(B) *Vehicle operation at stop sign.* When stop signs are erected at the entrance to the intersections, the operator of a vehicle approaching any of the streets where a stop sign has been erected shall bring the vehicle to a full and complete stop before entering the intersection, except when directed by a police officer to do otherwise.

Traffic On	***Shall Stop For Traffic On***
Beem Street	Hillside Avenue
Beem Street	Morgan Street
Central Avenue	Morgan Street
Central Avenue	Hillside Avenue
Clay Street	East Street
Clay Street	Washington Street
Clay Street	West Street
Clay Street	Montgomery Street
Clay Street	Main Street
Cooper Street	Washington Street
Cooper Street	East Street
Cooper Street	Main Street
Crane Avenue	Indiana Avenue
Crane Avenue	Morgan Street
Delaware Street	New Jersey Street
East Street	Franklin Street
East Street	Morgan Street
Fairview Avenue	Indiana Avenue
Fairview Avenue	Morgan Street
Fifth Avenue	U.S. 231-S.R.67
Fletcher Avenue	Franklin Street
Fletcher Avenue	Morgan Street
Franklin Street	Washington Street

Traffic On	***Shall Stop For Traffic On***
Franklin Street	U. S. 231 S. R. 67
Franklin Street	Main Street
Garden Drive	Fletcher Avenue
Garden Drive	East Street
Garden Park	Fletcher Avenue
Harrison Street	Morgan Street
Harrison Street	Franklin Street
Harrison Street	Cooper Street
Harrison Street	Hillside Avenue
Hart Avenue	Maple Drive
High Street	Franklin Street
High Street	Market Street
Hillside Avenue	Fletcher Avenue
Hillside Avenue (Westbound)	S.R. 46
Indiana Avenue	Wolf Street
Indiana Avenue	Fletcher Avenue
Indiana Avenue	West Street
Indiana Avenue	Vandalia Avenue
James Street	Fletcher Avenue
James Street	Laymon Avenue
Jefferson Street	Main Street
Jefferson Street	Washington Street
Laymon Avenue	Garden Drive
Lee Drive	Hillside Avenue
Lincoln Street	Hillside Avenue
Lovers Lane	Fletcher Avenue
Lovers Lane	East Street
Market Street	Harrison Street

Traffic On	***Shall Stop For Traffic On***
Market Street	Main Street
Market Street	East Street
Market Street	Washington Street
Market Street	Park Avenue
Meadow Drive	Hillside Avenue
Michigan Street	Fifth Avenue
Middle Street	Morgan Street
Middle Street	Hillside Avenue
Montgomery Street	Franklin Street
Montgomery Street	Wayne Street
Montgomery Street	Market Street
Montgomery Street	Morgan Street
Montgomery Street	Cooper Street
Montgomery Street	Hillside Avenue
New Jersey Street	Fifth Avenue
North Street	Wolf Street
North Street	Harrison Street
North Street	Fletcher Avenue
North Street	Washington Street
North Street	West Street
North Street	Beem Street
North Street	East Street
North Street	Main Street
North Street	Middle Street
North Street	Montgomery Street
North Street	Park Avenue
North Street	Central Avenue
North Street	Fairview

Traffic On	***Shall Stop For Traffic On***
Park Avenue	Garden Drive
Park Avenue	Morgan Street
Park Avenue	Franklin Street
Park Avenue	Lovers Lane
Rescinded	Rescinded
Short Street	Morgan Street
Short Street	Jefferson Street
Short Street	North Street
Short Street	Market Street
Short Street	Walnut Street
Short Street	Franklin Street
South Washington Street	Cooper Street
Spence Street	Franklin Street
Spence Street	Morgan Street
Sycamore Street	Jefferson Street
Sycamore Street	Market Street
Sycamore Street	Franklin Street
Tanner Avenue	Washington Street
Vandalia Avenue	Morgan Street
Vandalia Avenue	Hillside Avenue
Walnut Street	High Street
Walnut Street	Sycamore Street
Washington Street	Morgan Street
Wayne Street	Main Street
West Street	Wayne Street
West Street	Morgan Street
West Street	Jefferson Street
West Street	Market Street

Traffic On	***Shall Stop For Traffic On***
Wisconsin Street	Delaware Street
Wolf Street	Franklin Street
Wolf Street	Hillside Avenue
Wolf Street	Morgan Street

(Prior Code, Ch. 16, Art. VIII) (Ch. 16, Attachment 4) (Am. Ord. 2009-1, passed 1-5-2009 Am. Ord. 2009-19, passed 9-21-2009, Am Ord 2016-12, passed 10-24-2016; Am. Ord. 2017-10, passed 10-2-2017)

SCHEDULE V: MULTIPLE STOP INTERSECTIONS.

(A) *Designated.* The intersections described in Schedule V, attached hereto and made a part hereof, are designated as multi-stop intersections and which may be a 4-way stop, a 3-way stop or an all-way stop.

(B) *Vehicle operation at multi-stop intersections.* When appropriate signs conforming to the requirements of this Traffic Code are erected at the entrance to the intersections, the operator of a vehicle entering any of the streets shall bring the vehicle to a full and complete stop before entering the intersection, except when directed by a police officer to do otherwise.

(C) *Indiana Street.* Traffic that is east or west bound on Indiana Street must stop at the designated stop sign at the intersection of Wolf Street.

Streets	*Kind*
East Street and Jefferson Street	4-way
Franklin Street and West Street	4-way
Harrison Street and Jefferson Street	4-way
Hillside Avenue and Beem Street	3-way
Hillside Avenue and East Street	4-way
Hillside Avenue and Washington Street	4-way
Hillside Avenue and West Street	4-way
Jefferson Street and Montgomery Street	4-way
Main Street and Cooper Street	4-way
Main Street and Jefferson Street	4-way
Market Street and Montgomery Street	4-way
Montgomery Street and Wayne Street	4-way
Washington Street and Wayne Street	4-way

(Prior Code, Ch. 16, Art. IX) (Ch. 16, Attachment 5) (Ord. 1996-2, passed 4-1-1996; Am. Ord. 2000-1, passed 3-6-2000; Am. Ord. 2012-01, passed 5-7-2012)

SCHEDULE VI: YIELD INTERSECTIONS.

(A) *Designated.* The intersections described in Schedule VI hereto and made a part thereof are designated as yield intersections.

(B) *Vehicle operation at yield sign.* The driver of a vehicle approaching a yield sign shall, in obedience to the sign, slow down to stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the street on which he or she is driving and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. The driver having so yielded may then proceed into the intersection; provided, however, that if the driver is involved in a collision with a pedestrian in a cross-walk or a vehicle in the intersection after driving past a yield sign, the collision shall be deemed to be prima facie evidence of his or her failure to yield the right-of-way.

Traffic On	***Shall Yield To Traffic On***
Central Avenue	Franklin Street
Fairview Avenue	Franklin Street
Fletcher Avenue	Franklin Street
Garden Park	Circle
Indiana Avenue	Middle Street
Indiana Avenue	Lincoln Street
Indiana Avenue	Wolf Street
Indiana Avenue	Beem Street
Main Street	Hillside Avenue
Park Avenue	Hillside Avenue
Park Avenue	Circle
Park Avenue	Jefferson Street
Vandalia Avenue	Franklin Street
Vandalia Avenue (Southbound)	Lincoln Street
Washington Street (Southbound)	Main Street

(Prior Code, Ch. 16, Art. X) (Ch. 16, Attachment 6) (Am. Ord. 2009-1, passed 1-5-2009) (Am. Ord. 2009-19, passed 9-21-2009; Am. Ord.2016-12, passed 10-24-2016; Am. Ord. 2016-10, passed 10-2-2017)

SCHEDULE VII: SIGNALIZED INTERSECTIONS.

The intersections described in Schedule VII, attached hereto and made a part hereof, are designated as signalized intersections. When appropriate traffic control signals are installed at each intersection, the operator of a vehicle entering the intersections shall obey the signal displayed as the driver approaches the intersection, except when directed by a police officer to do otherwise.

Street	***Street***
Main Street	Morgan Street
Morgan Street	S.R 46 at west end of Spencer

(Prior Code, Ch. 16, Art. XI) (Ch. 16, Attachment 7)

SCHEDULE VIII: ONE WAY STREETS AND ALLEYS

Upon those streets and parts of streets and in those alleys described in Schedule VIII, attached hereto and made a part hereof, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

Street or Alley	***From***	***To***	***Direction of Travel***
Alley that lies between West and Montgomery Streets and is parallel to West and Montgomery	West Street	Jefferson Street	Southbound
East-west alley between West Morgan and Franklin	Intersection of the alley east	Fletcher	Eastbound
First alley north of Morgan Street	Short Street	Wolf Street	Eastbound
First alley south of Market Street	Washington Street	Main Street	Westbound
First alley south of Morgan Street	Washington Street	Harrison Street	Eastbound
Franklin Street	Washington Street	Main Street	Westbound
Garden Park	Park Avenue Circle		Counter Clockwise

(Prior Code, Ch. 16, Art. XII) (Ch. 16, Attachment 8) (Ord. 1994-1, passed 5-2-1994; Am. Ord. 1996-10, passed 7-15-1996; Am. Ord. 2016-12, passed 10-24-2016))

SCHEDULE IX: RESTRICTED TURN INTERSECTIONS.

(A) *Restricted turn intersections.* The intersections described in Schedule IX, attached hereto and made a part hereof, shall have certain turning movements restricted. When appropriate signs conforming to the requirements of this Traffic Code are erected that no right or left or U turn is permitted, no driver of a vehicle shall disobey the direction of any sign.

(B) *Turning at intersections.* The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Both the approach for a right turn and the right turn shall be made as close as practical to the right hand curb or edge of the roadway.

(2) Approach for a left turn shall be made in that portion of the right hand of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.

(3) When 2 vehicles meet at an intersection, both intending to make a left turn, the vehicles shall turn in front of each other instead of behind each other.

(4) Approach for a left turn from a 2-way street into a 1-way street shall be made in that portion of the right half of the roadway except while crossing a street on a crosswalk and when so crossing the person shall be granted all the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street.

(C) *U-turns limited.* The driver of any vehicle shall not turn his or her vehicle so as to proceed in the opposite direction upon any street in a vehicle unless the movement can be made in safety and without interfering with other traffic.

Intersection	***Restricted Turn***	***From***	***To***	***Time***
Franklin and Main Street	Left	Southbound	Eastbound	Any time

(Prior Code, Ch. 16, Art. XIII) (Ch. 16, Attachment 9)

SCHEDULE X: RESTRICTED TURNS ON RED AT SIGNALIZED INTERSECTIONS.

The intersections described in Schedule X, attached hereto and made a part hereof, shall restrict turns on red at signalized intersections. When appropriate signs conforming to the requirements of this Traffic Code are erected that no turn on red may be made at signalized intersections, no driver of a vehicle shall disobey the sign.

Intersection	***From***	***To***
Main Street and Morgan Street	Southbound Main Street	Westbound Morgan Street

(Prior Code, Ch. 16, Art. XIII) (Ch. 16, Attachment 10)

SCHEDULE XI: THROUGH ON RED LIMITED.

Vehicular traffic, approaching a signalized intersection whereat traffic from different directions is alternately directed to stop and proceed, and whereat the intersecting highway serves traffic only to and from the left, is prohibited from proceeding at a red signal at the intersections as stated in Schedule XI, attached hereto and made a part hereof.

Intersection	***Junction***	***Traffic***
U.S. 231, S.R. West	West	Eastbound

(Prior Code, Ch. 16, Art. XIII) (Attachment 11)

CHAPTER 77: PARKING SCHEDULE

Schedule

I. Angle parking
II. No parking zones
III. Limited parking zones
IV. Loading zones
V. Bus zones
VI. No truck or camper parking
VII. Parking meter zones
VIII. Parking meter operating periods
IX. Authorized parking areas for parking permits

SCHEDULE I: ANGLE PARKING.

Street	***From***	***To***	***Side of Street***
Main Street	Morgan Street	Jefferson Street	East
Main Street	Morgan Street	Jefferson Street	West
Market Street	Montgomery Street	Washington Street	North
Market Street	Montgomery Street	Washington Street	South
Washington Street	Market Street	Franklin Street	East
Washington Street	Market Street	Franklin Street	West

(Prior Code, Ch. 17, Art. VI) (Attachment 1)

SCHEDULE II: NO PARKING ZONES.

(A) *Tree plot.* An area defined as the tree plot running approximately 450 feet on the north side of Jefferson Street adjacent to Riverside Cemetery is hereby declared a no parking zone.
(Ord. 2006-1, passed 5-1-2006)

(B) *No parking.* It is prohibited to park on South East Street from Franklin Street to Jefferson Street, and further resolves that the area will be appropriately marked with signs designating this side of the street as a "No Parking" zone.
(Ord. 2001-01, passed 4-2-2001)

(C) Table.

Street	***From***	***To***	***Side of Street***	***Time of Restrict***
Crane Street	Franklin Street	State Hwy 46	East and West	Any time
Crane Street	State Hwy 46	Indiana Avenue	East and West	Any time
East Street	300 feet south of Cooper Street	Franklin Street	East	Any time
East Street	Lovers Lane	150 feet south of Garden Park	East	8:00 a.m. to 9:00 a.m. 3:00 p.m. to 4:00 p.m. on school days
East Street	150 feet north of Lovers lane	Garden Park	East	8:00 a.m. to 9:00 a.m. 3:00 p.m. to 4:00 p.m. on school days
Franklin Street	Main Street	Montgomery Street	North	Any time
Garden Drive	Garden Park	N. Park Avenue	West and North	Any time
Harrison Street	Market Street	Franklin Street	East	Any time
Harrison Street	Morgan Street	200 feet south of	West	Any time
High Street	Market Street	Franklin Street	East	Any time
Hillside Avenue	East Street	Washington Street	North	8:00 a.m. to 9:00 a.m. 3:00 p.m. to 4:00 p.m. on school days
Hillside Avenue	N East Street	N Park Avenue	North	Any time

Street	***From***	***To***	***Side of Street***	***Time of Restrict***
Hillside Avenue	North Harrison Street	58’ West of North Harrison Street	South	Any time
Hillside Avenue	N Harrison Street	N Washington Street	North	Any time
Hillside Avenue	N Park Avenue	N Fletcher Avenue	North	Any time
Jefferson Street	Montgomery	30 feet east of Montgomery Street	South	Any time
Main Street	Morgan Street	Hillside Avenue	West	Any time
Market Street	Height Street	West Street	North	Any time
Montgomery Street	Market Street	Morgan Street	West	Any time
Morgan Street	Fairview Avenue	Short Street	North	Any time
Morgan Street	Fairview Avenue	Short Street	South	Any time
North Street	Main Street	Fletcher Avenue	North	Any time
Washington Street	Hillside Avenue	100 feet north of Tanner Avenue	East	8:00 a.m. to 4:00 p.m. on school days
Washington Street	100 feet north of Tanner Avenue	850 feet north of Tanner Avenue	East	Any time
West Street	Cooper Street	Hillside Avenue	West	Any time
Wolf Street	Morgan Street	North Street	West	Any time

(Prior Code, Ch. 17, Art. VII) (Attachment 2) (Am. Ord. 2008-3, passed 10/20/2008, Am. Ord. 2017-12, passed 10-2-2017; Am. Ord. 2016-12, passed 10-24-2016; Am. Ord. 2018-12, passed 8-6-2018)

SCHEDULE III: LIMITED PARKING ZONES.

Street	***From***	***To***	***To Side of Street***	***Limit***	***Meter***
Franklin Street	First alley east of Washington Street	Main Street	North	2 hours*	Yes
Market Street	Montgomery Street	Washington Street	North	2 hours*	Yes
Market Street	Montgomery Street	Second parking space east of Washington Street	South	2 hours*	Yes
Montgomery Street	Market Street	Franklin Street	East	2 hours*	Yes
Main Street	Jefferson Street	Morgan Street	West	2 hours*	Yes
Main Street	Jefferson Street	Morgan Street	East	2 hours*	Yes
Main Street	Second meter south of Morgan Street	Franklin	West	2 hours*	Yes
Main Street	Morgan Street	Third meter south	East	2 hours*	Yes
Main Street	Market	First alley south	East	8 hours*	Yes
Washington Street	1/2 block south of Market Street	1/2 block north of Market Street	East	2 hours*	Yes
Washington Street	6th-7th-8th-9th	Meters south of Franklin Street	East	15 minutes*	Yes
Washington Street	Fifth parking meter south of Franklin Street	Morgan Street	East	2 hours*	Yes
Washington Street	Market Street	Morgan Street	West	2 hours*	Yes
Washington Street	Market	First alley south	East	8 hours*	Yes

* 8:00 a.m. to 6:00 p.m. daily - except Sundays and holidays.
(Prior Code, Ch. 17, Art. VII) (Attachment 3) (Am. Ord. 1997-15, passed 12-1-1997)

SCHEDULE IV: LOADING ZONES.

Street	***From***	***To***	***Side of Street***
Franklin Street	First parking space	East of Main Street	North
Market Street	First parking space	East of Main Street	South
Main Street	Parking areas in front of 165 S Main Street		East

(Prior Code, Ch. 17, Art. VII) (Attachment 4) (Am. 6-18-2012)

SCHEDULE V: BUS ZONES.

Street	***From***	***To***	***Side of Street***	***Type***
Hillside Avenue	North Harrison Street	N Washingotn Street	North	Bus Parking Only

(Prior Code, Ch. 17, Art. VII) (Attachment 5) (Am. Ord. 2018-12, passed 8-6-2018)

SCHEDULE VI: NO TRUCK OR CAMPER PARKING.

Street	***From***	***To***	***Side of Street***
Jefferson Street	Washington Street	Harrison Street	South
Main Street	1/2 block south of Market Street	Morgan Street	West
Main Street	1/2 block south of Market Street	Franklin Street	East
Main Street	Morgan Street	1/2 block north of Morgan Street	East
Market Street	Main Street	Washington Street	North
Washington Street	Market Street	Franklin Street	West
Washington Street	Market Street	Franklin Street	East

(Prior Code, Ch. 17, Art. VII) (Attachment 6)

SCHEDULE VII: PARKING METER ZONES.

(A) *Fifteen minute parking.*

Street	***From***	***To***	***Side of Street***
Washington Street	6th-7th-8th-9th meters	South of Franklin Street	East

(B) *Eight hour parking.*

Street	***From***	***To***	***Side of Street***
Franklin Street	First alley east of Washington Street	Main Street	North
Main Street	Jefferson Street	Morgan Street	West
Main Street	Jefferson Street	Morgan Street	East
Main Street	Second meter south of Morgan	Franklin	West
Main Street	Morgan Street	Third meter south	East
Market Street	Montgomery Street	Washington Street	North
Market Street	Montgomery Street	Second parking space east of Washington Street	South
Montgomery Street	Market Street	Franklin Street	East
Washington	Morgan	Franklin	East
Washington Street	1/2 block south of Market Street	1/2 block north of Market Street	East
Washington Street	Fifth parking meter south of Franklin Street	Morgan Street	East
Washington Street	Market Street	Morgan Street	West

* 8:00 a.m. to 6:00 p.m. daily - except Sundays and holidays per Schedule VIII.
(Prior Code, Ch. 17, Art. IX) (Attachment 7) (Am. Ord. 1997-15, passed 12-1-1997)

SCHEDULE VIII: PARKING METER OPERATING PERIODS.

(A) Parking meters shall be operative during the period from 8:00 a.m. to 3:00 p.m., local time, each day of the week except as follows.

(1) Meters will not be operative during scheduled holidays of the Town of Spencer; and

(2) On the other days as may be specified by the Town Council.
(Prior Code, Ch. 17, Art. IX) (Attachment 8)

SCHEDULE IX: AUTHORIZED PARKING AREAS FOR PARKING PERMITS.

Street	***From***	***To***	***Side Of Street***
Main Street	Railroad	Market Street	East
Main Street	Market Street	First alley	East
Market Street	Main Street	Montgomery	North
Market Street	Washington Street	Main Street	North
Montgomery	Market Street	First alley	East
Washington Street	Railroad	Market Street	West

(Prior Code, Ch. 17, Art. IX) (Attachment 9)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. ABANDONED VEHICLES

92. STREETS AND SIDEWALKS

93. NUISANCES

94. GENERAL FIRE REGULATIONS

95. TREE PLOTS

96. PARKS AND RECREATION

97. FAIR HOUSING

98. DISCHARGE OF PROJECTILES/WEAPONS

CHAPTER 90: ANIMALS

Section

General Provisions

90.01 Purpose
90.02 Definitions
90.03 Animal care
90.04 Contractual service
90.05 Enforcement

Permits

90.20 Permits for commercial animal establishments
90.21 Revocation of license/permit
90.22 Inspection of premises
90.23 Denial of license/permit

Rules and Regulations

90.40 Restraint of animals
90.41 Removal of animal waste

Wild and Domestic Animals

90.60 Farm and wild animals
90.61 Impoundment of stray animals

90.99 Penalty

GENERAL PROVISIONS

§ 90.01 PURPOSE.

This chapter requires animals to be given humane care and treatment; it declares animals to be a public nuisance under certain conditions and provides penalties for failure to abate the nuisance; it authorizes the impoundment of stray animals and requires the Town Marshal to capture or destroy animals when they are a public nuisance; it provides for the registration and licensing of animals kept within the town; it requires a permit for operation of a commercial animal establishment, kennel, or animal shelter; and it provides penalties for violations.
(Prior Code, Ch. 20, Art. I)

§ 90.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

ANIMAL. Any living, vertebrate creature, domestic or wild.

ANIMAL SHELTER. Any facility operated by a humane society, or municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

COMMERCIAL ANIMAL ESTABLISHMENT. Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition, or kennel.

HUMANE OFFICER. Any person designated by the State of Indiana, the town, or a humane society as a law enforcement officer who is qualified to perform the duties under the laws of this state.

KENNEL. Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

OWNER. Any person, partnership, or corporation owning, keeping, or harboring 1 or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for 3 consecutive days or more.

PERSON. An individual, firm, partnership, corporation or company.

PET. Any animal kept for pleasure rather than utility.

PET SHOP. Any person, partnership, or corporation, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animals.

RESTRAINT. Any animal secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

VETERINARY HOSPITAL. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

VICIOUS ANIMAL. Any animal or animals that constitute a physical treat to human beings or other animals.

WILD ANIMAL. Any live monkey (non-human primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx or any other warm-blooded animal which can normally be found in the wild state.
(Prior Code, Ch. 20, Art. II)

§ 90.03 ANIMAL CARE.

(A) *Humane care and treatment.*

(1) Owners shall provide their animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(2) No person shall beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dog fight, cockfight, bullfight, or other combat between animals and humans.

(3) No person shall crop an animals' ears or tail, except when by a licensed veterinarian and with certificate that the operation is necessary for the dog's health and comfort, and in no event shall any person except a licensed veterinarian perform such an operation.

(4) Owners shall not abandon their animals nor leave them unattended while away from home for any period exceeding 24 hours without compliance with division (A)(1) above.

(5) Any person who recklessly turns a live animal lose which causes any incident within the town's limits is in violation of this chapter and may face criminal charges for cruelty and inhumane treatment of the animal, and shall also be held civilly liable for any damages or injuries that result from the animal being unrestrained.

(B) *Giving animals as prizes prohibited.* No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter a place of amusement; or offer the vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(C) *Poisonous substances.*

(1) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal.

(2) The foregoing provisions shall not be construed as preventing or precluding the use of tranquilizers, or other sedative-type drugs, by police officers or humane officers in the capture of animals.
(Prior Code, Ch. 20, Art. III) Penalty, see § 90.99

§ 90.04 CONTRACTUAL SERVICE.

The Town Council may enter into agreements with other governments, animal shelters, and/or humane societies for services in connection with policies of this chapter, or any regulations connected with this chapter.
(Prior Code, Ch. 20, Art. XV)

§ 90.05 ENFORCEMENT.

All provisions of this chapter shall be enforced by agents designated by the town. It shall be a violation of this chapter to interfere with an agent or officer who is performing his or her duties of enforcement.
(Prior Code, Ch. 20, Art. XVI) Penalty, see § 90.99

PERMITS

§ 90.20 PERMITS FOR COMMERCIAL ANIMAL ESTABLISHMENTS.

(A) *Permit must be obtained.* No person shall open or operate a commercial animal establishment or animal shelter within the planning jurisdiction of the town without first obtaining a permit in compliance with this subchapter.

(B) *Application for permit.*

(1) Written application for a permit shall be made to the Spencer Commissioner of Buildings, Municipal Building. The application shall show the type and number of animals to be involved and shall provide assurances that the applicant is willing and able to provide humane care for all of his or her animals and assurances that he or she will comply with all applicable ordinances of the town.

(2) The permit period shall begin with the calendar year and shall run for 1 year. Renewal applications for permits shall be made 30 days prior to, and up to 60 days after, the start of the calendar year. Application for a permit to establish a new commercial animal establishment under the provisions of this subchapter may be made at any time.

(3) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his or her name upon payment of a $10 transfer fee.

(C) *Fee for permit.*

(1) The Commissioner of Buildings shall, when not in conflict with the zoning ordinance, issue annual permits upon payment of the applicable fee:

(a) For each establishment authorized to house less than 10 dogs or cats: $25;

(b) For each establishment authorized to house less than 50 dogs or cats: $50;

(c) For each establishment authorized to house 50 or more dogs or cats: $100; and

(d) For each pet shop: $75.

(2) Every commercial animal establishment regulated by this section shall be considered a separate enterprise and requires an individual permit.

(3) Any person who has a change in the category under which a permit was issued shall be subject to reclassification and appropriate adjustment of the permit fee shall be made.

(D) *Exception.* No fee shall be required of any veterinary hospital, animal shelter, or government operated zoological park. However, a permit shall be required as stated in divisions (A) and (B) above.
(Prior Code, Ch. 20, Art. XI) Penalty, see § 90.99

§ 90.21 REVOCATION OF LICENSE/PERMIT.

(A) The town may revoke any license or permit if the person holding the license or permit refuses or fails to comply with this subchapter, the regulations promulgated by the town, or any law governing the protection and keeping of animals.

(B) Any person whose license or permit is revoked shall, within 10 days thereafter, humanely dispose of all animals owned, kept, or harbored by the person and no part of the license or permit fee shall be refunded.
(Prior Code, Ch. 20, Art. XII)

§ 90.22 INSPECTION OF PREMISES.

It shall be a condition of issuance of any permit or license that any authorized agent of the town shall be permitted to inspect all premises and all animals kept on the premises at any time, and shall, if inspection rights are refused, revoke the permit or license of the refusing owner.
(Prior Code, Ch. 20, Art. XIII)

§ 90.23 DENIAL OF LICENSE/PERMIT.

(A) If an applicant has withheld or falsified information on the application, the town shall refuse to issue a license/permit.

(B) No person who has been convicted of cruelty to animals shall be issued a license/permit to operate an animal establishment.

(C) Any person denied a license or permit may not reapply for a period of 30 days. Each re-application must be accompanied with a $10 fee.
(Prior Code, Ch. 20, Art. XIV)

RULES AND REGULATIONS

§ 90.40 RESTRAINT OF ANIMALS.

(A) Owners shall keep their animals under restraint and each owner shall exercise proper care and control of his or her animals to prevent them from becoming a public nuisance.

(B) Every female dog or cat in heat shall be confined in a building or in a secure enclosure in a manner that the female dog or cat cannot come into contact with another animal except for planned breeding purposes.

(C) Every vicious animal, as determined by a Marshal or humane officer, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.
(Prior Code, Ch. 20, Art. V) Penalty, see § 90.99

§ 90.41 REMOVAL OF ANIMAL WASTE.

The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas, and/or on private property when it interferes with the reasonable sense of others while not located on the property.
(Prior Code, Ch. 20, Art. VI)

WILD AND DOMESTIC ANIMALS

§ 90.60 FARM AND WILD ANIMALS.

(A) *Farm animals.* It is unlawful for any person to keep or permit to be kept on his or her premises within the town limits any cattle, pigs, horses, chickens, rabbits, ducks, or other domesticated farm animals.

(B) *Wild animals.*

(1) No person shall keep or permit to be kept on his or her premises within the town limits any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.

(2) No person shall keep or permit to be kept any wild animal as a pet, except as may be authorized by the laws of the State of Indiana.

(C) *Exceptions.* The provisions of this section do not apply to farm animals brought into the town for the purposes of participating in shows, fairs, or similar short term exhibitions.

(D) *Farm and wild animals kept by schools.*

(1) A school shall be an entity that is licensed, chartered and/or incorporated under federal, state (Indiana) and/or local laws, rules and regulations, (and whose license, charter and/or articles of incorporation have not been revoked terminated, lapsed, or suspended) for the purpose of providing education and training to its student body and whose faculty members (teachers) hold a valid Indiana teacher's license.

(2) A school may keep farm and wild animals in accordance with the terms and provisions of this subchapter and all other applicable laws, ordinances, rules and regulations.

(3) All farm and wild animals must be kept in cages, pens and/or enclosures specifically designed for the type of animal being harbored. No animal shall be brought and/or kept in the Town of Spencer unless the cage, pen or enclosure is ready and available for the animal. All cages, pens and enclosures shall be located upon the real estate where the school building is located and the real estate shall belong to the school. In no event shall the total land area used for the cage, pen or enclosure exceed ½ acre.

(4) All farm and wild animals shall be properly taken care of in a humane manner at all times. All the animals shall be provided with proper and sufficient food, water, shelter, medical and physical care by a licensed veterinarian or other person sufficiently trained to care for the animals.

(5) All animal waste and refuse shall be properly cleaned up and disposed of on a regular basis. However, the waste or refuse shall not accumulate and become a nuisance.

(6) The school shall comply with all federal, state and local laws, rules and regulations pertaining to the animal(s). This shall include but is not limited to vaccinations and other shots, registration, licenses and permits.

(7) Before a school may keep animals under the provisions of this subchapter, the school must first execute a waiver of liability form (provided by the Town of Spencer) to and for the benefit of the Town of Spencer, Indiana. A waiver of liability form is incorporated by reference as part of this chapter. This form will be available at the Clerk-Treasurer's office located in the Spencer Municipal Building.
(Prior Code, Ch. 20, Art. X)

§ 90.61 IMPOUNDMENT OF STRAY ANIMALS.

(A) *Stray/unrestrained dogs and cats.*

(1) All stray and/or unrestrained animals and all those animals which constitute a public nuisance shall be subject to capture by Marshals or humane officers or the Spencer Police Department, and after capture shall be impounded in an animal shelter and there confined in a humane manner. If unable to reasonably capture stray animals, the Town Marshals are authorized to cause the destruction of the animals to protect persons and/or property.

(2) Impounded animals shall be humanely treated and housed.

(B) *Licensed animals.*

(1) If the owner of the dog or cat captured can be determined by its tag or otherwise, the Marshals or humane officer shall immediately upon impoundment notify the owner by telephone or by mail.

(2) Prior to release to the person owning and reclaiming an impounded animal, a fee of $25 plus $1 for each day an animal has been impounded, shall be paid to the operator of the animal shelter.

(C) *Adoption of unlicensed/unclaimed animals.*

(1) Any animal not reclaimed within 5 working days after impoundment shall become the property of the humane society and shall be placed for adoption in a suitable home or humanly euthanized.

(2) No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the adoptive person(s) guaranteeing that the animal will be sterilized after the adoption.
(Ch. 20, Art. IX)

§ 90.99 PENALTY.

(A) *General.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Failure to obtain permit.* Failure to obtain a permit before opening any facility covered in this section shall result in a fine of $200.
(Prior Code, Ch. 20, Art. XI)

(C) *Appearances in court.*

(1) Any person not slated to appear in court who violates this chapter shall be subject to a fine of $25, unless a different fine and/or penalty is prescribed for a particular violation, then the fine and/or penalty shall apply as may be provided for throughout this chapter. If any violation continues, each day's violation shall be considered a separate violation.

(2) Alleged violators not slated to appear in court may pay to the Spencer Clerk-Treasurer, within 7 days, the sum required by the citation issued. If the fine is not paid within 7 days, charges shall be filed in the court having jurisdiction over the alleged violation.

(Ch. 20, Art. XVII)

(D) *Mandatory and injunctive relief.*

(1) The Town of Spencer may bring an action in the Owen Circuit Court for mandatory and injunctive relief in the enforcement of and to secure compliance with § 90.60, and any orders made by the Building Commissioner of the Town of Spencer, and the action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.

(2) In addition to mandatory and injunctive relief as provided for in division (C)(2) above, a fine of $25 shall be assessed for a violation of the terms or provisions of this chapter. Each day a violation exists shall be considered a separate offense.

(3) These penalties shall apply specifically to division (D) of § 90.60 of this chapter of the Town Code. Any other penalties provided for in this chapter of the Town Code shall not apply.
(Ch. 20, Art. X)

(E) *Proceedings against owners of stray animals.*

(1) In addition to or in lieu of impounding an animal found at-large, a police officer or humane officer may issue to the known owner of the animal a notice of ordinance violation. The notice shall impose upon the owner of the animal found at-large a fine based on the following schedule:

(a) A fine of $25 for the first offense of letting an animal run-at-large.

(b) A fine of $50 for the second offense of letting an animal run-at-large.

(c) A fine of $100 for the third offense and each subsequent offense of letting an animal run- at-large.

(2) The fines shall be paid to the Clerk-Treasurer within 7 days of day of issuance of the ordinance violation. In the event the fine or fines are not paid within the time prescribed above, the town may bring suit in the court having jurisdiction over the alleged violation to enforce the provisions of this section. Any person who violates any provisions of this chapter shall become liable to the town for any expense, loss or damage by reason of the violation including reasonable attorney fees incurred by the town for collection of the account.
(Prior Code, Ch. 20, Art. IX)

CHAPTER 91: ABANDONED VEHICLES

Section

91.01 Abandoned vehicles

§ 91.01 ABANDONED VEHICLES.

This chapter established the procedures for carrying out within the incorporated areas of the town the provisions of I.C. 9-13-2-1 and 9-22-1 which prescribe the requirements for the removal, storage and disposal of abandoned vehicles in this state.

CHAPTER 92: STREETS AND SIDEWALKS

Section

Streets

92.001 Purpose
92.002 Definitions
92.003 Excavation permits required
92.004 Application for permit
92.005 Excavation requirements
92.006 Inspections
92.007 Emergencies
92.008 Exclusions
92.009 Maps of underground utility lines
92.010 Banner/signs across streets/alleys

Sidewalks and Curbs

92.025 Purpose
92.026 Definitions
92.027 Sidewalks
92.028 Curbs
92.029 Awnings/signs over or near sidewalks

Regulating Private Entrances

92.045 Name
92.046 Scope
92.047 Permit application
92.048 Bond provisions
92.049 Permit extensions
92.050 Release of bond
92.051 Inspections
92.052 Specifications
92.053 Maintenance
92.054 Other permits required
92.055 Fees for permits

Accessibility For Handicapped Persons

92.070 Business survey and enforcement of parking accessibility
92.071 Streets and sidewalks
92.072 General provisions

92.999 Penalty

STREETS

§ 92.001 PURPOSE.

This subchapter regulates and controls the making of excavations and openings in any street, alley, curb, sidewalk or ditch within the corporate limits of the town; it regulates and controls the placements of sewers and pipes in the drainage ditches of the town; it requires the obtaining of permits for making excavations; it requires surety bonds or cash deposits; and it prescribes penalties for violations.
(Prior Code, Ch. 15, Art. I)

§ 92.002 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

COMMISSIONER. The Commissioner of Buildings, Municipal Building, 90 North West Street, Spencer, Indiana 47460.

DRAINAGE DITCH. A ditch or depression alongside a public street or alley which has as its primary purpose the drainage of surface water from the area.

EXCAVATION. The digging of a ditch, hole, tunnel or other opening in the earth and the removal of dirt and other materials. It also means the insertions of cables, conduits, pipes or other similar materials underground with or without digging.

LINES. Pipes, cables, conduits or other means of transmitting products of utilities underground.

PERSON. An individual, firm, partnership, company or corporation.

SANITARY SEWER. A pipe or conduit for carrying sewage.

STORM SEWER. Those pipes, conduits, and passages through which water from rain and storms is drained from one area to another.

UTILITIES. Those corporations which provide the town with water, gas, electricity, voice communications and the Town Sanitary Sewage Disposal System.
(Prior Code, Ch. 15, Art. II)

§ 92.003 EXCAVATION PERMITS REQUIRED.

(A) *Unlawful to excavate without permit.* It shall be unlawful for any person to make excavations anywhere inside the corporate limits of the town for the purpose of laying new or replacement water, electric, telephone or other utility lines or for its maintenance or repair without first having obtained a permit or without complying with the provisions of this subchapter or the provisions and terms of the permit.

(B) *Unlawful to block drainage ditch.* It shall be unlawful for any person, to fill, block or otherwise impede the natural flow of water within storm sewers or drainage ditches.

(C) *Unlawful to install pipe or conduits in drainage ditch without a permit.* It shall be unlawful for

any person to install a pipe or conduit in any storm drainage ditch within the corporate limits of the town to bridge the ditch with a driveway or for any other purpose without first having obtained a permit as herein required, or without complying with the provisions here for the provisions and terms of and the permit.
(Prior Code, Ch. 15, Art. III) Penalty, see § 92.999

§ 92.004 APPLICATION FOR PERMIT.

(A) Applications for excavation permits for utility lines shall be made to the Commissioner or his or her authorized representative and shall describe the location of the intended excavation, the size thereof, the purpose therefore, and the person, firm or corporation for whom or which the work is being done and the application shall contain an agreement that the applicant will comply with all ordinances, laws and regulations relating to the work to be done.

(B) Applications for permits to install storm drains to bridge drainage ditches of the town shall describe the location of the site where the drain is to be installed, the size of drain, its intended purpose, the name of the person for whom the work is being done and the application shall state that the applicant will comply with all ordinances, laws and regulations relating to the work to be done.

(C) Excavation permits shall be required for all excavations made on, over and/or in all streets, alleys, sidewalks, and all other public property. The fee for each permit shall be $20. The Commissioner shall turn in all fees collected to the Clerk-Treasurer at the times as required by the Clerk-Treasurer and the fees shall be deposited to the general fund of the town.

(1) *Surety bond.* Unless exempted as provided by division (C)(2)(c) below, no excavation permit shall be issued unless the applicant therefore has filed with the Commissioner a surety bond conditioned to indemnify the town for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavation, or for failure to properly restore the ground and the laying of pavement or for failure to satisfactorily repair sidewalks and curb area disturbed by the excavation. The bond shall have a surety from a corporation licensed to do business in the State of Indiana.

(2) *Amount of surety bond.*

(a) Except as provided by divisions (C)(2)(b) and (c) below, applicants for excavation permits shall file with the Commissioner a surety bond in the minimum amount of $2,000;

(b) If the excavation project is of sufficient scope to warrant the filing of a surety bond in excess of $2,000 or if the applicant makes frequent excavations annually, such as utility companies, the Commissioner may require the applicant to file a surety bond in the amount of $10,000; and

(c) The Commissioner may, when in his or her judgment the action is in the best interest of the town, waive the bonding requirement for a single excavation of a minor nature when the work is to be done by a reputable and reliable contractor who only infrequently engages in this type work.
(Prior Code, Ch. 15, Art. IV) (Am. Ord. 1990-2, passed 1-15-1990)

§ 92.005 EXCAVATION REQUIREMENTS.

(A) *Compliance with terms of permit.* It shall be unlawful to make any excavation in any manner or means contrary to or at variance with the terms of the permit therefore or the requirements of this chapter.

(B) *Excavation safety.* The permit holder is responsible for taking all precautionary measures necessary to insure the safety of workers engaged in the excavation to include proper bracing to prevent the collapse of adjoining ground; and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

(C) *Barricades.*

(1) *Required for all excavations.* It shall be unlawful for any person to excavate in or in any way to obstruct any sidewalk or public place unless he or she shall properly barricade the same.

(2) *Barricades to be lighted.* It shall be the duty of the person so occupying or obstructing any sidewalk or public place to cause 1 or more red lights to be securely and conspicuously posted at the excavation or obstruction. One of the lights shall be placed at each end of the space so occupied, where the excavation or obstruction is 20 feet or less in length or breadth; and if space so occupied shall exceed 50 feet, additional lights at intervals of not more than 50 feet shall be placed and maintained from dusk until daylight during every night the excavation or obstruction shall be allowed to remain.

(D) *Temporary walkways.* If any sidewalk is blocked by excavations or other such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users.

(E) *Underground lines.*

(1) Case shall be exercised to avoid injury to other lines in making excavations. The permit holder shall give notice to appropriate utility company personnel and the Superintendent of the Sewage Department of the town when utility lines or sewers are or may be endangered or affected by the excavation.

(2) Damage caused to any utility by anyone other than the one making the excavation shall be held responsible for immediately reporting the damage to the affected utility and for all costs involved in repair of the damage.

(3) Utility companies shall attach metallic tracers to non-metallic lines in order to provide a means of determining the exact location of the lines prior to excavation.

(F) *Protection of trees, bushes and shrubbery.* Care shall be exercised during all excavations to prevent any unnecessary damage or injury to any trees, bushes or shrubs.

(G) *Restoration of surface.* Any person, firm or corporation making any excavation or tunnel in or under any public street, alley, sidewalk or other public place in the town shall restore the surface to its original condition. The opening shall be backfilled with bank run gravel, flume, agricultural lime or sand and shall be properly tamped down every 10 inches of fill. Any opening in a paved or improved portion of a street, alley or sidewalk shall be repaired and the surface relaid by the applicant in compliance with the terms of the permit and it shall be done under the supervision of the Superintendent of Streets and the applicant shall be liable and responsible for the proper maintenance and subsequent repairs of the opening for 1 year from the date of the repair and resurfacing.
(Prior Code, Ch. 15, Art. V) Penalty, see § 92.999

§ 92.006 INSPECTIONS.

(A) *Superintendent of Streets notified.* The Commissioner shall promptly notify the Superintendent of Streets of each excavation permit issued and the terms thereof.

(B) *Inspection for compliance.* The Superintendent of Streets or his or her representative, shall from time to time inspect or cause to be inspected, all the excavations and tunnels being made in or under any public street, alley, sidewalk or other public place in the town to see to the enforcement of the provisions of this subchapter and the conditions of the permit.

(C) *Inspection before backfilling.* The excavation permit holder shall be responsible for giving notice to the Superintendent of Streets at least 10 hours before the work of backfilling any excavation or tunnel begins.

(D) *Release of deposit.* The Commissioner shall not release the deposit made by the permit holder until the Superintendent of Streets advises that all terms of the permit have been complied with and the surface disturbed by the excavation has been satisfactorily restored.
(Prior Code, Ch. 15, Art. VI)

§ 92.007 EMERGENCIES.

Nothing contained in any section of this subchapter shall prevent any person from making excavations or openings in any street, alley or sidewalk inside the corporate limits of the Town of Spencer to repair underground lines if any extreme emergency exists which endangers the health, safety and welfare of the residents and buildings of the town, provided, that the person shall apply for and obtain a permit as herein required on the first day following the emergency on which the office of the Commissioner is open for business.
(Prior Code, Ch. 15, Art. VII)

§ 92.008 EXCLUSIONS.

(A) Employees of the Street and Sewage Departments while engaged in necessary performance of their duties are hereby excluded from the provisions of this subchapter requiring permits, fees, bonds and deposits.

(B) However, the manner of excavation as provided by § 92.005 shall apply to excavations made by the Spencer Sewage and Street Departments.
(Prior Code, Ch. 15, Art. VIII)

§ 92.009 MAPS OF UNDERGROUND UTILITY LINES.

(A) All utility companies having responsibility for existing underground utility lines located within the corporate limits of the town shall present to the Commissioner a map indicating the location of the lines within 180 days from the date of the adoption of this subchapter.

(B) Utility companies shall update and keep in current status, maps showing the location of their new lines, the re-routing of lines, and other matters pertinent to location of its system of utility lines within the town.
(Prior Code, Ch. 15, Art. IX)

§ 92.010 BANNERS/SIGNS ACROSS STREETS/ALLEYS.

It shall be unlawful for any person to place, or have placed, any banner or sign across any public street or alley in the town unless expressly approved by the Town Council.
(Prior Code, Ch. 22, Art. X) Penalty, see § 92.999

SIDEWALKS AND CURBS

§ 92.025 PURPOSE.

This subchapter states the responsibility for construction, reconstruction, repair and maintenance of sidewalks and curbs; it prescribes responsibilities for snow removal and for keeping sidewalks free from obstruction; and it prescribes penalties for violations of the provisions of this subchapter.
(Prior Code, Ch. 13, Art. I)

§ 92.026 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

BARRETT LAW. The state law which provides the Town Council with the power and authority to require sidewalk, street, curb construction, reconstruction and repair and for the financing of costs therefore by different means, including the levying of assessments against property owners.

COMMISSIONER. The Spencer Building Commissioner.

DRAINAGE CURB. A curb constructed along the edge of the street for the primary purpose of enhancing storm water drainage and for providing a barrier between the edge of the street and the grass strip between the street and sidewalk.

OCCUPANT. The individual, firm, partnership, company, corporation or other organized group occupying for business, residence or other purpose, the first floor of any building so occupied.

PROPERTY OWNER. The individual, firm, partnership, company, corporation, association or other organized group having the right of ownership in a lot, dwelling building or other structure abutting a street or alley.

PROTECTIVE CURB. A curb constructed to protect the sidewalk when the sidewalk forms an edge of the street and there is no grass strip between the outer edge of the sidewalk and the street.
(Prior Code, Ch. 13, Art. II)

§ 92.027 SIDEWALKS.

(A) *Property owner's responsibility.* Although the town may from time to time obtain grants of funds from federal and state agencies to construct, reconstruct and repair sidewalks, the basic responsibility for the cost of construction, reconstruction, repair, maintenance and cleanliness of sidewalks is that of the property owner along whose property lines the sidewalk is laid or required.

(B) *Location of sidewalks.* All sidewalks shall be laid within the street right-of-way. However, if there is no space or insufficient space within the street right-of-way for the sidewalk, the Town Council shall purchase or obtain the required space by condemnation action.

(C) *Construction specifications.*

(1) In addition to the other specifications and requirements as may be established by the Town Council, the following specifications and requirements shall apply to all new, repaired and replacement sidewalks:

(a) All old and existing sidewalks shall be broken up and all debris removed.

(b) Tree roots and other obstructions shall be removed to assure leveling of sidewalk.

(c) The base for the sidewalk shall be 4 inches deep of thoroughly compacted, crushed limestone or its equivalent.

(d) All sidewalks shall be not less than 4 feet wide.

(e) All sidewalks shall be made with concrete having a 28 day compressive strength of 3,000 psi and shall not be less than 4 inches thick.

(f) Finished sidewalks shall generally be at the same grade level as the existing sidewalk and the sidewalk shall be sloped to meet grade levels at streets and alleys.

(g) Cold joints shall be scored at 5 foot intervals and the concrete surface shall be troweled and broomed.

(h) Protective curbs may be required in those cases where the sidewalk forms an edge of the public street.

(2) Prior to beginning work on any new or replacement sidewalk, the owner or owners shall advise the Building Commissioner of the proposed work, to insure that all town requirements regarding the sidewalk are known to the owner or owners before work begins.

(D) *Owner responsible for construction.*

(1) Should the Town Council deem it necessary for the health, safety, welfare and convenience of the citizens of the town that a sidewalk should be constructed along the property lines of any block, lot, or parcel of land within the town, the Town Council shall by resolution, determine that the sidewalk is necessary for the health, welfare, safety and convenience of the public and that it shall be constructed.

(2) The Town Council shall then cause personal notice to be served upon the owner or owners of the property abutting the street on the block, lot, or parcel of land where it has been determined to construct the sidewalk, and the owner or owners shall be given 60 days within which to construct or cause the sidewalks to be constructed.

(3) If the owner elects to have the work done himself or herself the construction shall comply with the specifications prescribed by division (C) above, and shall be subject to inspection and approval by the Building Commissioner.

(4) Should the owner or owners of property along any block, lot, or parcel of land within the town fail or neglect to construct a sidewalk in accordance with a notice and resolution of the Town Council, the Town Council shall proceed to construct the sidewalk either by letting a contract for the work and materials or by purchasing the materials and causing the work to be done by employees of the town. After the sidewalk is constructed, the owner or owners of the abutting property shall be billed for the full amount of the costs of the materials, labor and supervision, in case the work be done by the town employees. Should the responsible owners fail to pay the amount billed to them by the Clerk-Treasurer within 30 days, then the town shall take appropriate action against the owner or owners of property to collect the amount due for the construction whether by taking legal action or proceeding under the

provisions of the Barrett Law.

(E) *Repairs and maintenance.*

(1) The responsibility for the costs of repairs and maintenance of sidewalks is that of the owner of the property and it shall be unlawful for any owner to permit the sidewalk to become so out of repair or broken that it is a hazard, a potential hazard, or dangerous to the life or limb of foot travelers.

(2) Should any owner, occupant or person in charge of any lot or premises permit dirt, filth or any other obstruction upon the sidewalk when written notice to remove the filth, dirt or other obstruction from the sidewalk shall be given by the Town Council. Unless the filth, dirt or other obstruction is removed within 24 hours, or within the time determined by the Town Council, the Superintendent of Streets shall remove the filth, dirt, or obstruction and certify the costs to the Town Council. Should the Town Council, upon examination, determine that the charges and costs so reported are reasonable, then the Clerk-Treasurer shall give notice in writing by mail to the owner, occupant or other person having charge of the lot, tract or parcel of land that unless the costs as specified are paid to the Clerk-Treasurer within 30 days after the notice, suit shall be instituted for and on behalf of the town by the Town Attorney to collect the costs, including reasonable attorney fees incurred by the town for collection of the account.

(3) In addition to the payment for the costs of removal of the obstruction, the person who violated the provisions of this subchapter make it unlawful to permit the obstruction may be subject to a fine of not more than $25.

(4) The obstruction of sidewalks by storing, selling or exhibiting goods, wares, merchandise, materials or the obstruction of sidewalks by trees, shrubs, signs or other objects is prohibited and is a public nuisance subject to the provisions and penalties of this chapter.

(F) *Owner responsible for snow and ice removal.*

(1) Although the Town Street Department may, within its manpower and equipment capacities, assist in the removal of snow and ice from sidewalks, the primary responsibility for snow and ice removal from in front of each premise is that of the occupant of the premise or premises or the owner of unoccupied premises.

(2) If the first floor of any building is not occupied, then the premises shall be deemed to be unoccupied and the property owner thereof shall be required to remove snow and ice as herein provided.

(3) In case the snow and ice on the sidewalk be frozen so hard that it cannot be removed without injury to the pavement or in case the weather conditions are such that cleaning of the sidewalk at the time is not practicable, the occupant of the premises and the owner of the unoccupied premises shall, within the time specified above, cause the sidewalk abutting the premises to be sprinkled with ashes, sand, sawdust, salt, or other similar suitable materials as to render the sidewalk safe for travel and shall, as soon thereafter as the weather may permit, thoroughly clean the sidewalk.
(Prior Code, Ch. 13, Art. III)

§ 92.028 CURBS.

(A) *Property owner responsible.* Although the town may from time to time obtain grants of funds from federal or state agencies for the construction, reconstruction and repair of curbs, the basic responsibility for the costs of construction, reconstruction and repair is that of the owner or owners of the property along whose property lines the curb is laid or required.

(B) *Location of curbs.*

(1) Protective curbs shall be constructed in a straight line parallel with and be an intricate part of the sidewalk.

(2) Drainage curbs shall be constructed in a straight line parallel with the sidewalks and on a line between the roadway and the grass plot by and under the provisions as the Town Council shall prescribe.

(C) *Construction specifications.* The specifications for construction of protective and drainage curbs shall be obtained from the Street Commissioner prior to beginning construction of the curbs.

(D) *Owner responsible for construction.*

(1) Should the Town Council deem it necessary for the welfare and convenience of its citizens that a curb should be constructed along the property lines of any block, lot or parcel of land within the town, the Town Council shall, by resolution, determine that the curbs should be constructed and that they are necessary to the health, welfare and convenience of the public. The Town Council shall then cause notice to be served upon the owner of the property abutting the street on the block, lot or parcel of land wherein it is declared to be necessary to construct the curbs, and the owner shall be given 60 days time within which to construct or cause the curbs to be constructed.

(2) If the owner elects to have the work done himself or herself, the construction shall comply with the specifications prescribed by the Street Commissioner and shall be subject to inspection and approval by the Commissioner.

(3) Should the owner of property along any block, lot or parcel of land fail or neglect to construct curbs in accordance with the notice and the resolution of the Town Council, the town shall proceed to construct the curbs, either by letting a contract for the work and materials, or by purchasing the materials and causing the work to be done by town employees. After the curb is constructed, the owner or owners of the abutting property shall be billed for the full amount of the contract, incase a contract be let, or for the full amount of the costs of the materials, labor and supervision, incase the work be done by the town, and upon failure of the owner or owners, as the case may be, to pay the sum billed to them by the Clerk-Treasurer within 30 days, then the town shall take appropriate action against the owner or owners of property to collect the amount due for the construction either by taking legal action or proceeding under the provisions of the Barrett Law.

(E) *Repairs and maintenance.*

(1) The responsibility for the costs of repair and maintenance of curbs is that of the property owner whose property abuts the street and it shall be unlawful for any property owner to permit the curb to become so out of repair, deteriorated, or broken to such an extent, that it creates a hazardous or dangerous condition for persons or vehicles.

(2) Upon request of the Town Council, each property owner shall have the option of having the required repair and maintenance work done himself or herself or of having the repair and maintenance work done and collection therefore as stated in division (D)(3) above.
(Prior Code, Ch. 13, Art. IV)

§ 92.029 AWNINGS/SIGNS OVER OR NEAR SIDEWALKS.

(A) All awnings, signs, or other objects, extending over any sidewalk, street, or alley shall be suspended by being securely fastened to some building or other support standing on the land adjacent to

the sidewalk, street or alley.

(B) Every sign or other object extending into or over any sidewalk, street or alley shall be so placed and maintained as not to interfere with the free use of the sidewalk, street or alley; but in no case shall it be closer to the sidewalk than 7 feet.

(C) Every sign or other object extending into or over any sidewalk, street or alley shall be so placed and maintained to provide an unobstructed view so that a hazard is not created for pedestrian or vehicular traffic.
(Prior Code, Ch. 22, Art. XI)

REGULATING PRIVATE ENTRANCES

§ 92.045 NAME.

This subchapter shall be known as the "Town of Spencer Driveway Ordinance".
(Ord. 1994-3, passed 5-2-1994)

§ 92.046 SCOPE.

(A) It shall be unlawful for any person, firm, or corporation to construct a private entrance, driveway, or approach which connects to any road, street, highway, or alley in the Town of Spencer without first filing with the Town of Spencer Building Department a written application for a permit to construct the entrance, driveway, or approach on forms provided or approved by the Street Department, at least 10 days in advance of the time of beginning the work, and without first executing a surety bond, all as required by the ordinance; provides further, however, that:

(1) This subchapter shall not apply to construction of any entrance, driveway, or approach made under contract with or by order of the Town Council of Spencer through its proper officials.

(2) The provisions of this subchapter pertaining to bonds and fees shall not apply to work being done by any city, town, municipal corporation, any other county, or by any agency of the state, provided that the entities shall comply with all applicable provisions of this subchapter.

(B) It shall also be unlawful for any person, firm, or corporation to fill any drain or ditch which is located within the town's right-of-way without first filing with the Town of Spencer Street Department a written application for a permit for the work on forms provided or approved by the Town of Spencer Building Department at least 10 days in advance of the time of beginning the work, and without first executing a surety bond, all as required by this subchapter.
(Ord. 1994-3, passed 5-2-1994) Penalty, see § 92.999

§ 92.047 PERMIT APPLICATION.

(A) Any person, firm or corporation desiring to construct a private entrance, driveway or approach which connects to a road, street, highway or alley in the Town of Spencer Road System shall make an application for a permit therefore, which application shall be presented to the Town of Spencer Building Department. The application for residential driveway shall be accompanied by a site plan showing:

(1) Property lines;

(2) Road right-of-way;

(3) Distances from intersecting roads;

(4) Width and type of road surface;

(5) Existing drainage features (ditches, culverts);

(6) Location of existing driveways arid structures;

(7) Location of proposed driveways and structures;

(8) Width and type of surface for proposed driveway;

(9) Proposed drainage features (culvert size and type);

(10) Copy of plat (if platted); and

(11) Any other pertinent information requested.

(B) The application for a multi-family, commercial, or industrial driveway shall include all items for a residential driveway in addition to the following items:

(1) Site plan shall be certified by a professional engineer, architect, or land surveyor;

(2) Proposed parking arrangement;

(3) Location of proposed traffic control devices and signs;

(4) Proposed use of each driveway (enter only, exit only, employees only, delivery trucks, and the like); and

(5) Location of any loading docks.

(C) Additionally, the applicant shall stake out the proposed driveway location prior to filing the application.

(D) The applicant shall also erect and maintain all necessary barricades, warning signs, and lights in conformance with the latest edition of the *Indiana Manual on Uniform Traffic Control Devices* as required to direct traffic safely around the place where the work is being done, so long as the work in any way interferes with traffic.

(E) The applicant shall hold harmless and indemnify the Town of Spencer of any and all claims arising out of the occupation and work of the applicant person, corporation and work of the applicant to work in the Town of Spencer's right-of-way pursuant to the approved application and permit.

(F) The applicant shall conspicuously display the approved permit at the site of work until the construction is completed.

(G) The Town of Spencer Building Department shall keep on file all applications and a record of all permits granted. All permits issued in compliance with the terms of this subchapter must have prior Street Department Commissioner approval attached and shall be made in triplicate, 1 copy of which shall be filed at the Street Department, 1 copy shall be sent to the Building Department, and a copy given to

the applicant.
(Ord. 1994-3, passed 5-2-1994)

§ 92.048 BOND PROVISIONS.

(A) Whenever the application is approved, the applicant will be required to give surety bond to the Town of Spencer, which the bond shall guarantee that the performance of the work described in the application is in conformance with this subchapter. The bond shall be in the sum of $500 for each residential driveway and shall be in the sum of $10,000 for each commercial or industrial driveway or an amount as indicated from a signed contract with an approved contractor. The amounts may be increased if a culvert in excess of 24 inches in diameter is needed. The bond shall remain in full force for a period of 1 year or until the driveway construction is completed and/or the construction of any building(s) on the property is completed.

(B) Anything contained herein to the contrary notwithstanding, however, a cashier's check or certified check payable to the Town of Spencer, in the same sum as designated herein for the bond, or a letter of credit issued by a financial institution approved by the Town Council in the sum as designated herein for the bond, may be filed with the application in lieu of the surety bond.
(Ord. 1994-3, passed 5-2-1994)

§ 92.049 PERMIT EXTENSIONS.

The holder of a permit issued as provided by this subchapter shall complete the work within 1 year of the date of issuance of the permit. An extension of time may be granted upon receipt of a new bond.
(Ord. 1994-3, passed 5-2-1994)

§ 92.050 RELEASE OF BOND.

The bond as provided herein shall be released only after an inspection of the completed work in conformance with this subchapter and after completion of the construction of the driveway and/or the construction of any building(s) on the property is completed.
(Ord. 1994-3, passed 5-2-1994)

§ 92.051 INSPECTIONS.

The Town of Spencer Building Department and the Town of Spencer Street Department Supervisor shall make an inspection of the premises to determine whether the driveway as proposed conforms to the provisions of this subchapter and any subsequent rules and regulations as approved by the Town Council of Spencer, and shall then issue or deny the permit.
(Ord. 1994-3, passed 5-2-1994)

§ 92.052 SPECIFICATIONS.

The specifications contained herein are the minimum allowable and at the discretion of the Street and Building Departments may be increased or decreased when warranted.

(A) *Residential driveways.*

(1) *Table.*

Minimum driveway width	12 feet
Maximum driveway width	20 feet
Minimum culvert diameter	12 inches
Minimum culvert length	24 feet
Culvert material	Reinforced concrete, corrugated metal pipe (14 Ga. minimum)
Culvert elevation	Top of pipe at least 6 inches lower than edge of roadway
Minimum sight distance	200 feet each direction for 30 mph 250 feet each direction for 35 mph 325 feet each direction for 40 mph 400 feet each direction for 45 mph
Minimum distance to nearest intersection	50 feet
Material	Paved or compacted aggregate #53 or #73 surface typed to match road section
Angle of intersection with road	60 degree minimum
Minimum design and sketches for residential driveways and mail box turnouts shall be shown	
Note: 1. Cross-hatched areas shall be 1 of the following: a. 6 inch plain concrete; b. 1 inch hot asphalt surface on 2 inch hot asphalt binder on 4 inch hot asphalt base; c. 1 inch hot asphalt surface on 2 inch hot asphalt binder on 6 inch compacted #53 or # 73 stone; and/or d. 8 inch compacted #53 or #73 stone. 2. Metal or precast concrete end sections shall be constructed on all pipes. 3. Pipe culverts shall be either concrete or corrugated metal. 4. Subgrade under all driveways shall be compacted in accordance with the Indiana Department of Transportation Standard Specification.	

(2) *Mailbox turnouts.*

(a) Mailbox turnouts shall be provided in the driveway approach permit applications. As practical, mailboxes should be grouped and turnouts combined with the driveway approach pavement. The mailboxes should be placed 2 feet center to center and the turnout lengthened to accommodate the grouping.

(b) Mailbox supports shall not be larger than a 4 inch by 4 inch timber post, a 2-1/2 inch standard wall pipe, or a section having similar breakaway characteristics.

(c) The mailbox turnout pavement should be the same material as the driveway approach. Town residents should submit drawings illustrating geometric designs for mail box turnouts to the Town Street Department for approval before installation.

(B) *Multi-family, commercial and industrial driveways.*

Minimum driveway width	20 feet
Maximum driveway width	40 feet
Minimum culvert diameter	12 inches
Minimum culvert length	32 feet
Culvert material	Reinforced concrete, corrugated metal pipe (14 Gas. minimum)
Culvert elevation	Top of pipe at least 6 inches lower than edge of driveway
Minimum sight distance	200 feet each direction for 30 mph 250 feet each direction for 35 mph 325 feet each direction for 40 mph 400 feet each direction for 45 mph
Minimum distance to nearest intersection	35 feet
Minimum distance to nearest driveway	25 feet
Material	Paved or compacted aggregate #53 or #73 surface type to match road section
Angle of intersection with road	70 degree minimum
Acceleration and deceleration tapers	ADT greater than 100 and/or road is designated as collector or arterial route
Minimum design and sketches for residential driveways and main box turnouts shall be as shown	

(C) *Residential, commercial and industrial subdivisions and planned unit development entrances.*

Minimum driveway width	20 feet
Maximum driveway width	50 feet
Minimum culvert diameter	12 inches
Culvert material	Reinforced concrete, corrugated metal pipe (14 Ga. minimum)
Culvert elevation	Top of pipe at least 6 inches lower than edge of roadway
Minimum sight distance	200 feet each direction for 30 mph 250 feet each direction for 34 mph 325 feet each direction for 40 mph 400 feet each direction for 45 mph

Minimum distance to nearest intersection	50 feet
Minimum distance to nearest driveway	25 feet
Material	Paved or compacted aggregate #53 or surface type to match road section
Angle of intersection with road	20 degree minimum
Acceleration and deceleration tapers with right turn storage lane	ADT greater than 1,000 and/or road is designated as collector or arterial route
Passing blisters	All routes designated by town thoroughfare plan or designated as collector or arterial routes
Minimum design and sketches for residential driveways and mail box turnouts shall be as shown	
Metal End Section	
Notes: End sections and toe plate anchors shall conform to all applicable requirements as set out in the Standard Specifications. If aluminum alloy pipe culvert is furnished, aluminum alloy end sections should also be used and all component parts shall be aluminum alloy as set out in the Standard Specifications. Multiple panel bodies shall have lap seams which shall be tightly jointed with 3/8 feet 0 Galvanized rivets or bolts. The toe plate anchor shall be constructed of 10 gauge galvanized steel and be required on all steel pipe end sections. It shall be matched-punched to holes in skirt lip, and supplied loose, complete with 3/8 inches Ø galvanized bolts. Where vitrified clay culvert or cast iron culvert pipe is used a pipe end section comparable to that as shown for metal or concrete shall be furnished and shall be as approved by the engineer. Pimpled connection band may be used to connect pipe end section to helically corrugated pipe.	

(D) *Location of driveways.*

(1) Driveways shall be located so as to result in no undue interference with, or hazard to, the free movement of normal vehicular traffic and so that areas of traffic congestion will not be created on the roadway. In accordance with this principle, driveways shall be located where the roadway alignment and profile are favorable and there are no sharp curves, steep grades, and sight distance restrictions. To the extent feasible within the frontage limits, any driveway should be located at a point of optimum sight distance along the roadway. Application may be denied if adequate sight distance cannot be obtained.

(2) For property tracts with a sizeable frontage on the roadway, the driveway location and arrangement will be governed by the position of the improvements. However, where driveways are provided to predominantly unimproved areas, they shall be located to the best advantage with regard to the roadway alignment, profile and sight distance conditions.

(3) Where a driveway is provided to a commercial establishment, the road right-of-way and the adjacent borders shall be reasonably clear.

(E) *Number of drives.*

(1) The number of driveways should be a minimum to adequately serve the needs of the abutting property. Commercial frontages of less than 200 feet are limited to 1 driveway. Normally, not more than 2 driveways shall be allowed into any single property tract or business establishment. When

more than 2 driveways on 1 frontage are necessary to facilitate operations, the minimum distance between the drives should be 400 feet. A property which has more than one frontage on a roadway may be allowed one driveway per frontage.

(2) Where there are several adjacent roadside establishments, each with limited frontage or where there is a probability of the development, consideration shall be given to constructing a frontage road for several driveways so as to reduce the number of separate connections to the highway. Frontage roads that parallel the highway shall be allowed access points at minimum intervals of 500 feet. Frontage roads should be set back from the town roadway in such a manner as to allow adequate storage for entering and exiting traffic.

(F) *Joint driveways.* An approach to a driveway that serves adjacent property owners may be allowed. However, the application shall be jointly prepared and submitted by the property owners.

(G) *Driveway approach grade.* The profile grade of the approach from the edge of the existing lane pavement shall slope down and away at the same rate as the roadway shoulder grade. It shall be constructed in a manner that no surface water will drain onto the roadway.

(H) *Sight distance.* To the extent feasible within the frontage limits, any driveway should be located at a point of optimum sight distance along the roadway.

(I) *Drainage.*

(1) The applicant shall provide drainage information and show that there are no adverse affects to drainage patterns in the vicinity caused by the new drive.

(2) Culvert pipes shall not be sized smaller than structures upstream from their location.

(3) Culvert pipes sized for driveways shall follow design frequencies for a 10 year design storm.

(4) All pipes shall have end sections. End sections may be either concrete or metal and shall comply with all state and local codes.
(Ord. 1994-3, passed 5-2-1994)

§ 92.053 MAINTENANCE.

The applicant shall agree to maintain that portion of the driveway that is within the public right-of-way including the culvert pipe and drainage ditches in good condition in such a manner as to prevent obstruction or interference with the roadway, the traffic thereon, or with any drain or ditch which serves the roadway. There shall be no time limit on this responsibility. If the property should change ownership, the successor(s) shall acquire this obligation.
(Ord. 1994-3, passed 5-2-1994)

§ 92.054 OTHER PERMITS REQUIRED.

The Town of Spencer hereby adopts regulations of the State Building Code.

§ 92.055 FEES FOR PERMITS.

The Town of Spencer hereby adopts regulations of the State Building Code.

ACCESSIBILITY FOR HANDICAPPED PERSONS

§ 92.070 BUSINESS SURVEY AND ENFORCEMENT OF PARKING ACCESSIBILITY.

(A) The Town of Spencer in September, 2001, issued notice to several businesses of their potential violations of the ADA provisions regarding the number, signage and marking of the handicapped parking locations at their respective places of business.

(B) These businesses were asked to voluntary upgrade or establish the required parking within 60 days and to respond affirmatively as to their individual plan of action and response to the alleged violations.

(1) The Town of Spencer will continue to monitor these known businesses to ensure their compliance by voluntary means on or before February 1, 2002. In the event that any known business fails or refuses to complete its upgrade or establishment of parking facilities for the handicapped on or before March 1, 2002, the town will take all appropriate legal steps to enforce compliance.

(2) The town will ensure that all building permits issued in accordance with the Town Code specifically identify any and all accessibility issues and will redesign the permit application process to require adequate information as the building design, layout and parking facilities to ensure compliance with the above recited federal, state and local statutes and ordinances.

(3) The town will continue to maintain its liaison with the ADA Advisory Committee to develop further plans and areas of concern with regard to the implementation of the provisions of the ADA.
(Ord. passed 3-4-2002)

§ 92.071 STREETS AND SIDEWALKS.

(A) *Survey and inventory*. The town will undertake a complete inventory of the sidewalk and street crossing locations to identify and create a matrix identification system, for the specific locations of each major and minor intersection in the town. The suggested format would include a gird nomenclature using a combination of letters and numbers, such as “Al”, “Bl” and the like as is typically used in mapping functions. This matrix shall become a permanent part of the Street Department records and shall be amended from time to time as the boundaries of the town are increased, decreased or modified. As streets are closed within the town limits, matrix locations will be retired and those identification codes removed from active use. The manner and means of labeling and coding of the matrix system will rest in the sound discretion of the town's Street Department Superintendent.

(B) *Notice to the public*. On or before March 1 of each year hereafter, the town will issue notice to the public requesting advise from the citizens of the Town of Spencer as to the location of persons or properties specifically needing remedial or rehabilitative maintenance of the sidewalks or streets bounding the residences and workplaces of persons needing accessibility as defined by the aforesaid federal, state and local statutes and ordinances. The list of the locations will be forwarded to and maintained by the Street Department and used to define the areas of annual rehabilitation, maintenance and construction. The information collected in this process is not binding upon the town but will be reviewed for accuracy, measured for degree of potential safety issues, and analyzed for the potential benefit to the largest population of citizens for the cost to be incurred. The notice suggested by this division will be the simple community calendar notice in the local newspapers and does not constitute a

requirement for any other legal notice.

(C) *Maintenance and construction.* Each year hereafter, the Street Department, or its delegated representative, will present its proposed budget and fiscal plan required for the maintenance, construction and rehabilitation of all projects anticipated for that year. The Department Superintendent, his or her delegate or 1 appointed by the Town Council, will submit his or her proposals for the number and location of sidewalk cuts or other construction methods used to implement accessibility requirements during the project year. The town directs the Superintendent, his or her delegate or others appointed by the Town Council, to analyze and present the locations by matrix nomenclature and to present the cost and/or benefit analysis of the proposed projects individually. Attention must be given to those sidewalk areas that meet the following criteria:

(1) Sidewalks that require handicap access due to the private residential use or commercial workplaces which have been identified by the public as necessary or significantly interfering with commercially handicapped traffic;

(2) Sidewalks that are presently and contemporaneously in need of repair and rehabilitation by reason of independent, uneven and unsafe physical condition;

(3) Sidewalks which have the highest density of residential and/or commercial traffic; and

(4) Sidewalks that have the highest and best cost and/or benefit ratio for repair.
(Ord. passed 3-4-2002)

§ 92.072 GENERAL PROVISIONS.

(A) *Five and 10 Year Plans.* The Street Department, its delegate or others appointed by the Town Council, will furnish annually an update on the 5 and 10 Year Plan of Action designed to remediate the town's streets and sidewalks within the budgetary and fiscal responsibilities assigned to that unit by the annual budget. In addition, the Department will research and identify any and all known sources of additional grants or funding available, but not yet certified to the Town of Spencer for the projects.

(B) *Council approval.* The Town Council meeting in open session will discuss, review and direct the Street Department to implement the projects as it deems appropriate and consistent with its budget and other fiscal priorities in its regular meeting.

(C) *Purpose.* The purpose of this policy statement and endorsement of the town's responsibility for monitoring and enforcing the provisions of the aforesaid regulatory and statutory laws is to ensure the public that the Council is aware and concerned about the welfare of its handicapped citizens and that a plan of action has been definitively announced to implement and carry forward its responsibilities in this regard.

(D) *Focus.* Nothing in this policy statement shall be construed to carry the force of a legal ordinance or compel any particular Council action or expenditure. To the contrary, every project in the Town of Spencer's repertoire of activities in any calendar year must be considered a dynamic and ever-changing administrative design that will react to the exigencies present at the time of implementation. The focus of this policy is to judiciously implement responsibilities, over time, that have costs and expenses which would be otherwise prohibitive and inconsistent with the health, welfare and safety of the citizens of the Town of Spencer. The policy is designed to identify and act upon the known areas of concern and to balance this rehabilitation with all other duties and responsibilities of the town to provide all the other utilities and services to its residents.
(Ord. passed 3-4-2002)

§ 92.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm or corporation violating any provision of §§ 92.001 through 92.009 shall upon conviction thereof, be fined in an amount not less than $100 and not more than $1,000 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
(Prior Code, Ch.15, Art. X)

(C) Should the owner or occupant fail to remove snow and ice from his or her sidewalk as required by § 92.27, he or she may be subject to a fine of not less than $10 nor more than $50 for each offense. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues.
(Prior Code, Ch. 13, Art. III)

CHAPTER 93: NUISANCES

Section

General Provisions

93.01 Purpose
93.02 Power and authority of the Town Council
93.03 Definitions
93.04 Nuisance created by others
93.05 Duty of the Town Council, Town Marshal, and Town Building Inspector to assist County Health Officer
93.06 Duty of the Town Marshal to remove nuisances from public places

Conditions To Be Declared Nuisances

93.20 Accumulation of filth, trash, and the like
93.21 Littering
93.22 Obstructing sidewalks, streets, or alleys
93.23 Weeds and rank vegetation
93.24 Trees, shrubs and other obstructions
93.25 Obstructions at street/alley intersections
93.26 Open wells/cisterns
93.27 Discarded refrigerators, and the like
93.28 Attachment of posters to poles, trees, and the like
93.29 Noxious odors
93.30 Obnoxious noises
93.31 Graffiti
93.32 Storage of Junk

Abatement of Nuisance

93.45 Request to abate nuisance
93.46 Service of notice
93.47 Refusal or neglect to abate nuisance
93.48 Action against creator of a nuisance
93.49 Appeal of Notice of Violation, Citation, or Abatement Costs

93.99 Penalty

GENERAL PROVISIONS

§ 93.01 PURPOSE.

It shall be unlawful and it shall be a nuisance for any person to erect, construct, cause, permit, keep or maintain within the limits of the town anything whatsoever which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, and any person or persons maintaining a nuisance as above set forth herein or as otherwise defined by ordinance is declared to be the author or maintainer of the nuisance. However, in accordance with Indiana Code 32-30-6 *et seq*., the provisions of this section do not apply to any such condition when:

(A) An agricultural or industrial operation or any of its appurtenances that has been in operation for more than one (1) year, there has been no significant change in the type of operation, and the operation would not have been a nuisance at the time the agricultural or industrial operation began.

(B) A public use airport operation or any of the operation's appurtenances that has been in continuous operation for more than one (1) year, the operation was not a nuisance with the operation began, and the operation is operated in accordance with the rules of the Indiana Department of Transportation, aeronautics section.

(C) A forestry operation that existed before a change in the land use or occupancy of the land within one (1) mile of the boundaries of the locality and would not have been a nuisance before the change in land use or occupancy.

(D) A forestry operation that conforms to generally accepted forestry management practices that has been in continuous operation and has had a change in ownership or size of the operation, enrollment in a government forestry conservation program, has began the use of a new forestry technology, has had a visual change due to removal of timber or vegetation, has normal noise from forestry equipment, has had removed timber or vegetation from a forest adjoining the locality, or has properly applied pesticides and fertilizers.

(Prior Code, Ch. 22, Art. I) (Ord. 2015-06 passed 8/3/15)

§ 93.02 POWER AND AUTHORITY OF THE TOWN COUNCIL.

The Indiana Code provides the Town Council with the power and authority to declare what constitutes a public nuisance and to provide for the prevention, abatement, and removal of nuisances and to take the other measures as are deemed necessary for the public safety, health and welfare.
(Prior Code, Ch. 22, Art. II)

§ 93.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

ABATEMENT. The stopping or ceasing or putting an end to whatever the condition or action may be which causes or is causing a public nuisance.

JUNK. Any unsightly things, or things regarded as worthless or having no to low value or causing clutter. Visible items of personal property or the remains thereof randomly scattered or strewn upon the property of the

owner which remains in that condition for a period in excess of seven (7) days is presumed to be junk.

NUISANCE. Whatever is injurious to health, or is indecent, or is offensive to the senses, or is an obstruction to the free use of property so as to essentially interfere with the comfortable enjoyment of life or property. Whenever the words ***PUBLIC NUISANCE*** are used in this chapter, they shall have the same meaning as ***NUISANCE***.

OWNER. The fee simple title holder as it appears in the records of the Owen County Auditor.

PERSON. An individual, firm, company, association, corporation or group.

PREMISES. Include all buildings, structures, dwellings, lots or grounds within the town.

(Prior Code, Ch. 22, Art. III) (Ord. 2015-06 passed 8/3/15)

§ 93.04 NUISANCE CREATED BY OTHERS.

For the purposes of this chapter, it shall not be necessary or essential that a public nuisance be created or contributed to by the owner, or tenants or their agents or representatives, but merely that the nuisance be enacted or contributed to by licenses, invitees, guests or other persons for whose conduct the owner or operator is responsible, or by persons for whose conduct the owner or operator is not responsible for but who should, by the exercise of reasonable care become aware of.
(Prior Code, Ch. 22, Art. V)

§ 93.05 DUTY OF THE TOWN COUNCIL, TOWN MARSHAL AND TOWN BUILDING INSPECTOR TO ASSIST COUNTY HEALTH OFFICER

It shall be the duty of the Town Council, Town Marshal, and Town Building Inspector to at all times aid the County Health Officer, his agents, employees, and assigns, in the work of enforcing applicable state and local health laws, regulations, and ordinances upon the request of the Health Officer.
(Ord. 2015-06 passed 8/3/15)

§ 93.06 DUTY OF THE TOWN MARSHAL TO REMOVE NUISANCES FROM PUBLIC PLACES

It shall be the duty of the Town Marshal to cause to be removed any dead animal, dead fowl, or other nuisance from the streets, alleys, or other places of the town when he or she shall become cognizant of the existence of the nuisance without waiting for demand from the Health Officer.
(Ord. 2015-06 passed 8/3/15)

CONDITIONS TO BE DECLARED NUISANCES

§ 93.20 ACCUMULATION OF FILTH, TRASH, AND THE LIKE.

The accumulation of filth, refuse, trash, garbage, rubbish and waste materials and matter is a public nuisance and it endangers the public health, welfare and safety; it is an annoyance to, and materially interferes with the peaceful enjoyment of other persons residing in the area and no person shall allow the accumulations on his or her premises and he or she shall keep his or her premises clean. This shall include any animal waste, human excrement, dead domestic or wild animals, or any other placement or

accumulation of any matter which attracts or may attract rodents, insects, or other animals in such a manner as to create a health hazard or unsanitary or dangerous condition.
(Prior Code, Ch. 22, Art. IV, § 1) (Ord. 2015-06 passed 8/3/15)

§ 93.21 LITTERING.

(A) A person who recklessly, knowingly, or intentionally places or leaves refuse on property of another person, commits littering, which is a Class B infraction.

(B) "Refuse" includes solid and semisolid wastes, dead animals and offal.

(C) Evidence that littering was committed from a moving vehicle other than a public conveyance constitutes prima facie evidence that it was committed by the operator of that vehicle.
(Prior Code, Ch. 22, Art. IV, § 2) Penalty, see § 93.99

§ 93.22 OBSTRUCTING SIDEWALKS, STREETS, OR ALLEYS.

(A) It is unlawful for any person to place, or cause to be placed any objects, materials, snow, or other matter in or on any street, alley or sidewalk which obstructs the flow of traffic, or creates an unsafe condition and a hazard to users of the street, alley or sidewalk.

(B) No person shall use or occupy any portion of any public street, alley sidewalk or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise or materials. The Town Council, may, however, authorize the use of sidewalks and streets and alleys under special conditions to promote the economic welfare of the town. The authorizations when issued, shall be specific as to locale and date and time.
(Prior Code, Ch. 22, Art. IV, § 3) Penalty, see § 93.99

§ 93.23 WEEDS AND RANK VEGETATION.

(A) Weeds and Rank Vegetation shall be defined as any vegetable matter which exceeds the height of six (6) inches; provided however that such definitions do not include:

(1) Trees, bushes or shrubs which have been planted or cultivated by the landowner and which do not block sidewalks, streets, alleys, or otherwise encroach upon or impair the normal use and enjoyment of the property or adjoining property;

(2) Agricultural crops, such as hay and pasture; or

(3) Vegetable manner cultivated in plant beds or gardens.

(B) Landowners within the town are responsible for cutting and removing weeds and rank vegetation. If the landowner fails to keep his or her property mowed, and rank vegetation removed, then the Spencer Town Police may issue a written notice or citation to the landowner giving him or her a specified amount of time to correct the violation. The notice shall be served by a member of the Spencer Police Department upon the landowner. If the landowner is not the person residing upon the premises, then the notice must also be mailed by certified mail to the last known address of the landowner. A person wishing to appeal a written notice or citation for violation must do so in writing within 10 days of the date on

the written notice or citation. A appeal shall be filed with the Spencer Town Clerk-Treasurer and will be heard by the Spencer Town Board at its next regular meeting.

(C) If the landowner fails to correct the violation within the time prescribed, the Spencer Town Police shall immediately notify the Spencer Town Board. The Spencer Town Board will notify the Superintendent of Streets, if they deem necessary, to correct the violation.

(D) If the Superintendent of Streets is required to perform any action to correct the violation, he must provide the Clerk-Treasurer with a certified statement of the amount of actual costs incurred by the town in the removal. The Clerk-Treasurer shall have the Town Marshal deliver the statement to the landowner, or send by certified mail, and the landowner shall have not more than 10 days within which to pay the amount to the Clerk-Treasurer.

(E) If the landowner fails to pay the costs within the time prescribed, a certified copy of the statement of costs shall be filed with the Owen County Auditor who shall place the amount of the claim on the tax duplicate against the lands of the landowner, and the amount shall be collected as taxes are collected and when collected shall be deposited in the general fund of the town.

(Prior Code, Ch. 22, Art. IV, § 4) (Amend Ord. 2015-06 passed 8/3/15. Amend Ord 2017-13, passed 10/2/2017) Penalty, see § 93.99

§ 93.24 TREES, SHRUBS AND OTHER OBSTRUCTIONS.

(A) No property owner or occupant shall allow any shrubs, hedge, or tree to encroach upon any alley, street or sidewalk and shall not let any limbs of trees on his or her property to project out over any street, alley or sidewalk at a height of less than 14 feet.

(B) No property owner or occupant shall cause or allow any tree, stack or other object to remain standing upon his or her premises in the condition that it, if the condition is suffered to continue, endangers the life, limb, or property or cause hurt, damage or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.
(Prior Code, Ch. 22, Art. IV, § 5) Penalty, see § 93.99

§ 93.25 OBSTRUCTIONS AT STREET/ALLEY INTERSECTIONS.

(A) It shall be unlawful for any property owner or occupant to have or maintain on his or her property any tree, hedge, billboard, sign or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. For the purpose of this section the Town of Spencer incorporates by reference the provisions of the INDOT line of sight standards and requirements, as amended, as if the same were recited in full text herein.
(Prior Code, Ch. 22, Art. IV, § 6) (Ord. 2015-06 passed 8/3/15) Penalty, see § 93.99

§ 93.26 OPEN WELLS/CISTERNS.

No person shall cause or permit the existence of any open or uncovered or insecurely covered, cistern, cellar, well, pit, excavation or vault situated upon private premises in any open or unfenced lot or place.
(Prior Code, Ch. 22, Art. IV, § 7) Penalty, see § 93.99

§ 93.27 DISCARDED REFRIGERATORS, AND OTHER APPLICANCES CONTAINING DOORS.

(A) No person shall store, place or permit any discarded, abandoned or unused icebox, refrigerator or similar container of any airtight character in any place where the same is accessible to children, without first removing and rendering completely inoperable all catches or locks on the exterior of all doors thereof, so as to prevent any person or child from becoming imprisoned therein.

(B) This section shall not apply to the delivery, transfer or removal of any icebox, refrigerator or container from 1 location to another while in transit.
(Prior Code, Ch. 22, Art. IV, § 8) Penalty, see § 93.99

§ 93.28 ATTACHMENT OF POSTERS TO POLES, TREES.

No person shall post, paste, nail or in any way attach or fix any bill, notice, announcement or other advertisement to any tree located in any alley, street or other public place in the town or upon or to any pole used for telephone or telegraph or electric light or any other purpose; provided that the provisions of this section shall not apply to the posting of any notice or order of any court, nor to the posting of any legal notice required or authorized by law.
(Prior Code, Ch. 22, Art. IV, § 9) Penalty, see § 93.99

§ 93.29 NOXIOUS ODORS.

No person shall use or occupy any premises in such a manner as to cause the unreasonable emission of noxious or offensive odors, dusts, smoke or other matters into the atmosphere so as to render ordinary use or physical occupation of other property in the vicinity to be uncomfortable or unhealthy or impossible.
(Prior Code, Ch. 22, Art. IV, § 10) Penalty, see § 93.99

§ 93.30 OBNOXIOUS NOISES.

(A) *Noise.* Obnoxious noise is any noise noxious enough to destroy the reasonable enjoyment of residents or other uses of property in the vicinity interfering with the ordinary comforts of human existence, including but not limited to:

(1) *Horns, signaling devices.* Unnecessary sounding of horns or signal devices on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and declaration of the vehicle is intended or any signal device of any unreasonably loud or harsh sound from any device for an unnecessary and unreasonable period of time.

(2) *Radios, phonographs, boom boxes, and the like.* The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in the manner as to disturb the reasonable peace and quiet and comfort of the neighboring inhabitants or at any time with louder volume than is deemed reasonably necessary; the operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place, so as to annoy or reasonably disturb the quiet, comfort or repose of any persons in such a manner as to be plainly audible at a distance of 20 feet from the building, structure, property or vehicle in which it is located shall be prima facie evidence of a

violation of this section.

(3) *Schools, courts, churches, hospitals.* Creation of excessive noise or disturbing noise of any kind on any street adjacent to any school, institution of learning, church or court while the same are in session or adjacent to the medical facility which unreasonably interferes with the workings of the institutions provided conspicuous signs are displayed in the streets indicating that the same is a school, hospital or court street.

(4) *Hawkers, peddlers, advertisers, and the like.* The use of sound trucks, loudspeakers, amplifiers or other instruments or devices for the purpose of making noise to attract attention to any performance, show or sale or display of merchandise without the specified approval of the Town Council prior to the use.

(5) *Yelling, shouting, and the like.* Noise on the street made by persons or groups of persons yelling, shouting, singing, hooting, whistling or making other vocal noises on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or reasonably disturb the quiet, comfort or repose of any persons in any medical facility, dwelling, hotel or any other type of residence or of any other persons in the vicinity.

(6) *Fireworks.* The Spencer Town Council reserves the right to pass separate ordinances concerning the use of fireworks.

(B) *Exemptions.* Noise that is a result of parades, school functions, sports or band functions or the like is exempt from this statute.
(Prior Code, Ch. 22, Art. IV, § 11) Penalty, see § 93.99

§ 93.31 GRAFFITI.

The unauthorized inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of a public or private property that is not expressly authorized by the property owner is a public nuisance
(Ord. 2015-06 passed 8/3/15)

§ 93.32 STORAGE OF JUNK

It shall be unlawful for any person to cause or permit the storage of junk upon his or her property. Junk shall include, but is not limited to, scrap metal; scrap wood; synthetic or organic material; ruined, dismantled, inoperable, wrecked motor vehicles, boats or objects of similar nature or parts thereof; discarded tires, and any or all parts of dismantled buildings or structures.
(Ord. 2015-06 passed 8/3/15)

ABATEMENT OF NUISANCE

§ 93.45 REQUEST TO ABATE NUISANCE.

(A) In those cases where the action is deemed reasonable, appropriate and proper, the Town Marshal, his agents, employees, or assigns, or the Town Building Inspector shall issue a written notice stating the nature of the violation and provide a reasonable time limit for satisfactory correction thereof. The offender shall, within the time period specified, permanently abate all violations. (B) If the nuisance created is a nuisance that the Town Council, Town Marshall, his agents, employees or assigns, or Town Building Inspector has previously been provided written notification for the same condition or occurrence to the owner then, in that instance, the Town Marshall may immediately issue a citation pursuant to the provision of **§**93.99 of this chapter for the persons failure to properly abate the nuisance. No cure period will be offered.
(Prior Code, Ch. 22, Art. VI, § 1) (Ord. 2015-06 passed 8/3/15)

§ 93.46 SERVICE OF NOTICE.

(A) In all cases of required written notice, registered or certified mail to the last known address of the person creating a nuisance, or personal service by the appropriate town official will apply.

(B) In all cases that the property owner's whereabouts are unknown, then service shall be considered valid when the notice is sent to the address listed on the tax duplicate records of the Owen County Treasurer.
(Prior Code, Ch. 22, Art. VI, § 2) (Ord. 2015-06 passed 8/3/15)

§ 93.47 REFUSAL OR NEGLECT TO ABATE NUISANCE.

If an owner, occupant or other person served with a notice to abate a nuisance shall refuse or neglect to abate the nuisance within the time designated in the notice, the person shall be subject to the penalties provided in this chapter.
(Prior Code, Ch. 22, Art. VI, § 3) Penalty, see § 93.99

§ 93.48 ACTION AGAINST CREATOR OF A NUISANCE.

(A) The Town Council may cause a nuisance to be abated in any manner authorized by law, including the institution of an action for declaratory relief or to recover the amount of expenses of the abatement.

(B) The Clerk-Treasurer will notify the person who owes any costs for abatements, and if the costs are not paid within 30 days, the town shall proceed to collect the same either by causing the costs to be placed on the tax duplicate or by a civil suit. Upon initiation of a civil suit additional fees will be incurred by the person who owes the costs for abatement, including reasonable attorney fees incurred by the town for collection of the account.
(Prior Code, Ch. 22, Art. VI, § 4)

§ 93.49 APPEAL OF NOTICE OF VIOLATION, CITATION, OR ABATEMENT COSTS

A person who has been served with a written notice of violation or citation may appeal the notice or

citation by notifying the Town Clerk-Treasurer, in writing, of the specific objection to the notice within ten (10) days of the issuance of the written notice of violation or citation. The objection shall be heard by the Town Council at its next regularly scheduled meeting and no further action of abatement shall be taken by the town until the Town Council has heard and acted upon the objection. The failure to object to the citation constitutes an affirmative admission of the facts stated in the citation.
(Ord. 2015-06 passed 8/3/15)

§ 93.99 PENALTY.

(A)If the person creating the nuisance does not abate the nuisance or only temporarily abates the nuisance , then the Town Marshal, his agents, employees or assigns, shall issue a local citation in accordance with this section. If the violation is a nuisance violation that the owner or creator has previously received written notice regarding, then no subsequent written notice is required and the Town Marshal, his agents, employees, or assigns, may immediately issue a local citation in accordance with this section.

(B) if the violation is for unreasonable noise observed by a town marshal and is coming from a mobile source such as a vehicle, or walking person, no previous warnings or written notices are required.

(C)If the violation is for weeds and or rank vegetation, and the owner has failed to abate the nuisance, then in that instance, the Town may enter upon the premises and remove the nuisance. Any costs for removal shall be certified by the Town and a statement shall be tendered to the owner, by certified mail, allowing ten (10) days for the owner to reimburse the town for its costs associated with removal. If the owner fails to make payment within the ten (10) days, then the Town Clerk-Treasurer shall file a certified copy of the statement of costs with the Auditor's office, pursuant to Indiana Code 36-7-10-3, and the Auditor shall place the amounts on the tax duplicate as a lien against the lands of the owner. The amounts shall then be collected as taxes upon the real estate and when collected shall be dispersed to the General Fund of the Town.

(D) Any person who violates this chapter or fails to comply with any of its requirements, shall be guilty of an infraction and shall be fined in the sum of $50 for the first offense in any 12 month time frame, $100 for the second offense in any 12 month time frame, and $500 for the third and all subsequent offenses in any 12 month time frame . Each time any violation of this chapter continues, shall constitute a separate and chargeable offense.

(E) If the person creating the nuisance fails to pay the costs as specified to the Clerk-Treasurer within 30 days after the notice, suit shall be instituted for and on behalf of the town by the Town Attorney to collect the costs, including reasonable attorney fees incurred by the town for collection of the account.
(Prior Code, Ch. 22, Art. IV, § 11) (Ord. 2015-06 passed 8/3/15)"

CHAPTER 94: GENERAL FIRE REGULATIONS

Section

94.01 Burning of structures
94.02 Bonfires

§ 94.01 BURNING OF STRUCTURES.

No person shall burn, or cause to be burned, any structure, or the debris resulting from the demolition or razing of any structure, on any private or public land within the town limits without the expressed written approval from the Fire Territory's Chief.
(Prior Code, Ch. 22, Art. VIII, § 1) Penalty, see § 10.99

§ 94.02 BONFIRES.

(A) No person shall kindle or maintain any bonfire, rubbish fire, or any type of outdoor fire, or authorized or permit any fire to be kindled or maintained on private land, public street, alley, road, or other public ground, at any time without first obtaining the expressed written approval or authorization from the Fire Territory.

(B) In the event the Fire Territory's Chief shall approve or authorize the kindling or maintaining of any fire, as contemplated in § 94.01 and/or division (A) above, the approval or authorization shall be in writing on a form provided by the Fire Territory Chief (the form shall be approved and adopted by the Town Council).

(C) The provisions of division (A) above are intended to eliminate the hazardous, obnoxious, annoying and discomforting effect of outdoor fires from whatever source. The restrictions of division (A) above are not intended to apply to the kindling and maintaining of fires in approved furnaces and/or stoves which are primarily used for heating a structure, for example: houses, motels, retail stores, offices, factories, schools, churches and government buildings.

(D) The restrictions of division (A) above do not apply to the kindling and maintaining of a fire for the purpose of outdoor cooking. However, a fire may be kindled and maintained for the purpose of preparing or otherwise cooking of food for human consumption so long as the fire is kindled and maintained in an apparatus specifically designed for cooking outdoors. The provisions of this division do not permit the kindling or maintenance of an open type bonfire. However, upon application, the Fire Territory's Chief may issue a permit allowing the kindling and maintaining of such a bonfire for cooking purposes. The permit shall be issued in compliance with the applicable provisions of divisions (A) and (B) above.
(Prior Code, Ch. 22, Art. VIII, § 2) Penalty, see § 10.99

CHAPTER 95: TREE PLOTS

Section

95.01 Purpose
95.02 Intent
95.03 Policy
95.04 Definitions
95.05 Applicability
95.06 Removal, Newly Planted or Replacements
95.07 Obstructions and Pruning
95.08 Permits
95.09 Fees
95.10 Tree Advisory Committee
95.11 Terms of Office
95.12 Compensation
95.13 Operation
95.14 Meetings
95.15 Minutes and Records
95.16 Quorum
95.17 Duties and Responsibilities
95.18 Jurisdiction and Appeals
95.99 Penalties

§ 95.01 PURPOSE

The Town of Spencer recognizes that trees and vegetation provide benefits to the community and finds it necessary to establish basic standards, measures, and compliance for the preservation and protection of trees and vegetation while at the same time recognizing the individual rights to develop private property. Benefits provided by trees include:

(A) Enhancing visual and aesthetic qualities that attract visitors and businesses and serve as a source of community image and pride.

(B) Energy conservation and energy costs reductions by providing shade and evaporative cooling.

(C) Increasing real property values

(D) Reducing storm water runoff and the potential for soil erosion

(E) Reducing Noise Pollution

(F) Reducing local air pollution by absorbing carbon dioxide and ozone and by releasing oxygen.

(G) Reducing wind speed and directing air flow.

(H) Providing habitat for birds, small mammals and other wildlife.

(Ord. 2009-2, passed 1-5-2009)

§95.02 INTENT

The provisions of this chapter are enacted to:

(A) Promote the public health, safety and general welfare,

(B) Maintain and enhance the natural scenic beauty of the Town of Spencer

(C) Complement and strengthen zoning, subdivision and land use standards and regulations, while at the same time recognizing individual rights to develop private property.

(D) Establish and maintain the optimum amount of tree cover on public and private lands to moderate climatic conditions, sustain long-term potential increase in property values, maintain original ecology, reduce soil erosion, and increase the oxygen output of the area needed to combat air pollution.

(E) Maintain health trees on public and private lands using the most current arboricultural practices

(F) Encourage quality project design and utilize design incentives to promote the conservation of tree resources.

(G) Authorize the Tree Advisory Committee to administer the Tree Ordinance.
(Ord. 2009-2, passed 1-5-2009)

§ 95.03 POLICY.

(A) This chapter shall be known as the Town of Spencer "Tree Plot Ordinance".

(B) This chapter provides full power and authority over all trees, plants and shrubs located within the areas commonly known as tree plots.
(Prior Code, § 97.01, Prior Code §95.01) (Am. Ord. 2009-2, passed 1-5-2009)

§ 95.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

APPROVED STREET TREE LIST. The list of trees approved by the Spencer Town Council for planting within the public right-of-way or on public property.

ARBORICULTURAL. The cultivation of trees and shrubs especially for ornamental purposes.

PUBLIC PROPERTY. Property owned or controlled by the town.

PUBLIC RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street or alley, boulevard, road, trail, transportation support facilities such as signs and signals, public utilities or other special public uses.

SHRUB. A woody plant this is characteristically below 20 feet in height and is multi-stemmed supporting the main leafy growth.

TOWN. The Town of Spencer.

TREE. A perennial woody plant, with 1 main stem, or in a clump form up to 3 main stems, which develops many branches and ordinarily grows to a height of 20 feet or more.

TREE PLOT. An area designated by the town as dedicated to the growth of established species of trees, shrubs or other plants within the space between the streets or thoroughfare of the town and the sidewalks of the town. The areas will be memorialized by a tree plot map, maintained by the town.

VEGETATION. All herbaceous and woody plant material, including turf grass, vines, ground covers, flowers and all other plant material not considered to be a tree or shrub.
(Prior Code, § 97.02; Prior Code §95.02) (Am. Ord. 2009-2, passed 1-5-2009))

§ 95.05 APPLICABILITY.

No person or business shall plant trees, shrubs, vegetation or any combination thereof in the areas designated as tree plots without the prior written consent of the Spencer Town Council.

For the purposes of this ordinance property owners shall be considered liable for trees, shrubs and vegetation planted within the area to begin at the lot line and end at the curb or street. This includes the sidewalk and the area that may exist between the sidewalk and the curb or street.
(Prior Code, § 97.03; Prior Code §95.03) (Am. Ord. 2009-2, passed 1-5-2009)

§ 95.06 REMOVAL, NEWLY PLANTED OR REPLACEMENTS

(A) No person, entity or corporation, shall remove or cause the removal of any tree, shrub or vegetation between the sidewalk and the curb or roadway, within the grassy area behind the sidewalks, or within the areas designated as tree plots without first securing a permit from the Town of Spencer. Replacement trees, shrubs or vegetation will be at the discretion of the Tree Advisory Committee.

(B) No person, entity, or corporation shall plant or replace any trees, shrubs, or vegetation grassy plot between the sidewalk and the curb or roadway, within the grassy area behind the sidewalks, or within the areas designated as tree plots without first securing a permit from the Town of Spencer. Tree placement must take into account the tree's size and branching at maturity.

(C) Spacing and placement of replaced or newly planted trees should be determined by the Tree Advisory Committee according to local conditions, tree species used, their height, spread and form.
(Ord. 2009-2, passed 1-5-2009)

§ 95.07 OBSTRUCTIONS AND PRUNING

(A) It shall be the duty of any person or persons owning or occupying real property bordering on any street or public way upon which property there may be trees, to prune such trees in such a manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision or traffic signs, obstruct flow of

vehicular traffic, or obstruct view of any street or alley intersection. Such clearances and pruning shall be done in a judicious manner so that such trees will not be damaged.

(B) Should any person or persons owning real property bordering on any street fail to prune trees as provided in this section, the city tree official shall order such person or persons to prune such trees within then (10) calendar days after receipt of written notice.

(C) When a person to whom an order is directed fails to comply within the specified time, the town, shall do such pruning and/or trimming, or cause same to be done and shall charge the expense in doing such work or having such work done to the town. Such expense or expenses shall then be assessed on the real estate or lot(s) upon which such expense incurred and a lien placed on the real property as provided by law.

(D) Electric utility or cable television companies shall coordinate tree pruning with the Town of Spencer prior to the start of pruning work.
(Ord. 2009-2, passed 1-5-2009)

§ 95.08 PERMITS

(A) All applications must be made on the forms provided by the Town of Spencer.

(B) Tree Removal Permit: An application for a tree removal permit must be submitted and approved prior to the removal of any tree in the areas between the sidewalk and the curb or roadway, within the grassy area behind the sidewalks, or within the areas designated as tree plots. A permit for tree removal is valid for one (1) year from the date of issuance.

(C) Newly Planted or Replacement Permit: An application for new or replacement tree, shrub or vegetation must be filed with the Town of Spencer prior to the placement of any trees, shrubs, or vegetation between the sidewalk and the curb or roadway, within the grassy areas behind the sidewalk, or in the areas designated as tree plots. The request must include a site plan for the area in which the tree, shrub or vegetation will be planted. The site plan must include the setbacks from the sidewalks, curbs, and streets. The site plan must also include the species of tree, shrub or vegetation to be planted.
(Ord. 2009-2, passed 1-5-2009)

§ 95.09 FEES

The fee for the Tree Removal Permit and/or the Newly Planted or Replacement Permit shall be in the sum of Ten Dollars ($10.00). All fees shall be payable to the Town of Spencer.
(Ord. 2009-2, passed 1-5-2009)

§ 95.10 TREE ADVISORY COMMITTEE

(A) There is created and established by this chapter a Tree Advisory Committee for the Town.

(B) The Tree Advisory Committee shall be created to serve in an advisory capacity to the Town Council.

(C) The Tree Advisory Committee shall consist of five (5) members. The Street Department Superintendent shall be one member and a member of the Parks and Recreation Board shall be another member. The remaining three (3) members shall be citizens and residents of the Town of Spencer and shall be appointed by the Spencer Town Council.
(Ord. 2009-2, passed 1-5-2009)

§ 95.11 TERMS OF OFFICE

(A) The Street Department Superintendent shall have no set term limits. A person who holds the position of the Town of Spencer Street Department Superintendent shall serve as a member of the Tree Advisory Committee so long as he/she holds the position of Street Department Superintendent.

(B) The initial member of the Parks and Recreation Board shall hold a two (2) year term and at the expiration of the initial two year term the subsequent member shall hold a four (4) year term. The remaining three (3) citizen members shall hold four (4) year terms with the exception of one (1) member who shall hold an initial term of (2) years and at the expiration of the initial two year term the subsequent member shall hold a four (4) year term.

(C) In the event of any vacancy or term conclusion the Spencer Town Council shall appoint a replacement member to serve.
(Ord. 2009-2, passed 1-5-2009)

§ 95.12 COMPENSATION

Members of the Tree Advisory Committee shall serve without compensation.
(Ord. 2009-2, passed 1-5-2009)

§ 95.13 OPERATION

(A) The Tree Advisory Committee shall select a Chairperson in January of each year.

(B) The Committee shall be advisory only and shall submit its written recommendations to the Town Council for action and approval.
(Ord. 2009-2, passed 1-5-2009)

§ 95.14 MEETINGS

The Tree Advisory Committee shall meet at the times as called by the Chairperson and at the Municipal Building.
(Ord. 2009-2, passed 1-5-2009)

§ 95.15 MINUTES AND RECORDS

(A) The Tree Advisory Committee shall keep minutes and records of all of its proceedings.

(B) All minutes and records are public records and shall be kept in the Municipal Building

(C) The Tree Advisory Committee shall make written findings of fact

(D) Votes on any Tree Advisory Committee action shall be recorded.
(Ord. 2009-2, passed 1-5-2009)

§ 95.16 QUORUM

A Quorum shall consist of a majority of the entire membership of the Tree Advisory Committee.
(Ord. 2009-2, passed 1-5-2009)

§ 95.17 DUTIES AND RESPONSIBILITIES

(A) Preparation of the Comprehensive Tree Plan

(1) The Tree Advisory Committee shall prepare a written plan for the care, replacement, maintenance, and removal or disposition of trees, shrubs, and other existing vegetation within the public right-of-way and on public property.
(2) The plan shall be presented annually to the Town Council and, upon its acceptance and approval, shall constitute the Town's official comprehensive tree plan.

(B) Preparation of an Approved Tree List.

(1) The Tree Advisory Committee shall prepare a list of the species, sizes, and forms of trees to be planted in public right-of-ways and on public property for adoption by the Town Council as the Town's approved street tree list.

(2) The list shall be submitted for approval and updated annually.

(C) Dissemination of News and Information

(1) The Tree Advisory Committee shall assist in the dissemination of news and information regarding the protection, maintenance, removal, and planting of trees, shrubs and other vegetation within the Town.

(2) The Committee is authorized to initiate activities in related areas such as wildlife habitat.

(D) Study proposals for landscape modifications

(1) The Tree Advisory Committee shall study proposals for landscape modifications within the public right-of-way and public property referred to it for review by the Town Council and other town officials.

(E) Other Duties and Responsibilities

(1) The Tree Advisory Committee shall advise the Town Council, as needed concerning amendments to this chapter or any other standards or documents prepared by the Tree Advisory Committee.

(2) The Tree Advisory Committee is authorized to submit applications for grants and awards. Acceptance of any grants or awards must be approved by the Town Council.

(3) The Tree Advisory Committee shall meet at least quarterly during the year in order to conduct business and coordinate the Town's urban forestry program, grants, and educational activities.

(4) Any grants shall be coordinated with the Clerk Treasurer and all funds are to be considered a part of the Town's funds.

(5) No expenditures of any funds are to be made without the approval of the Town Council as handled under general operation procedure.

(Ord. 2009-2, passed 1-5-2009)

§ 95.18 JURISDICTION AND APPEALS

All actions or decisions taken or made by the Tree Advisory Committee shall be subject to review by the Town Council

(A) Any citizen may appeal any recommendation made by the Tree Advisory Committee to the Town Council

(B) The Town Council shall hear the matter and make all final decisions and determine all final actions to be taken.

(Ord. 2009-2, passed 1-5-2009)

§ 95.99 PENALTIES

(A) Any person, firm or corporation violating any of the provisions of this chapter shall be fined $25.00 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(B) Any person, firm or corporation who violates any provision of this chapter is subject

to civil penalties. The Town Attorney shall request injunction, abatement, or any appropriate action at his or her disposal to prevent, enjoin, abate, or remove violations. Costs incurred by the Town of Spencer to prevent, enjoin, abate or remove violations, including reasonable attorney fees, shall be borne by the Defendant.
(Ord. 2009-2, passed 1-5-2009)

CHAPTER 96: PARKS AND RECREATION

Section

96.01 Hours of use for the Cooper Commons Park Area

§ 96.01 HOURS OF USE FOR THE COOPER COMMONS PARK AREA.

(A) The area known as Cooper Commons Park shall be closed for use from the hours of 10:00 p.m. to 5:00 a.m. each night. These restrictions may be modified during special events such as the Owen County Fair and by action of the Council for other activities.

(B) The police shall have authority to enforce this rule in accordance with applicable local and state laws.
(Res. 2005-1, passed 3-21-2005)

CHAPTER 97: FAIR HOUSING

Section

97.01 Purpose
97.02 Definitions
97.03 Unlawful Practice
97.04 Discrimination in the Sale or Rental of Housing
97.05 Discrimination in Residential Real Estate-Related Transactions
97.06 Discrimination in the Provision of Brokerage Service
97.07 Interference, Coercion, or Intimidation
97.08 Prevention of Intimidation in Fair Housing Cases
97.09 Exemptions
97.99 Administrative Enforcement of Ordinance

§ 97.01 PURPOSE

It shall be the policy of the Town of Spencer to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5-1 *et. seq*.
(Ord. 2013-1, passed 1-22-2013)

§ 97.02 DEFINITIONS

(A) The definitions set forth in this Section shall apply throughout this Ordinance:

DWELLING means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families (I.C. 22-9.5-2-8).

FAMILY includes a single individual (I.C. 22-9.5-2-9), with the status of such family being further defined in subsection (H) of this Section. Also, pursuant to 24 CFR Part 5, the definition of "family" is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.

PERSON (I.C. 22-9.5-2-11), includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

TO RENT (I.C. 22-9.5-2-13), includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant.

DISCRIMINATORY HOUSING PRACTICE means an act that is unlawful under Sections §97.04, §97.05, §97.06, §97.07, or §97.08 of this Ordinance or I.C. 22-9.5-5.

HANDICAP means, with respect to a person:

1. a physical or mental impairment which substantially limits one or more of such person's major life activities.

2. a record of having such an impairment, or

3. being regarded as having such an impairment,

4. an impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.

5. Any other impairment defined under I.C. 22-9.5-2-10.

The term 'Handicap' shall not include current illegal use of or addictions to a controlled substance as defined in Section 802 of Title 21 ofthe United States Code (I.C. 22-9.5-2-10(b); nor does the term 'Handicap' include an individual solely because that individual is a transvestite (I.C. 22-9.5-2-10(c).

AN AGGRIEVED PERSON includes any person who (I.C. 22-9.5-2-2):

1. claims to have been injured by a discriminatory housing practice; or

2. believes that such person will be injured by a discriminatory housing practice that is about to occur.

FAMILIAL STATUS means one or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

COMMISSION (I.C. 22-9.5-2-3) means the Indiana Civil Rights Commission created pursuant to I.C. 22-9-1-4, et. Seq.

COMPLAINANT (I.C. 22-9.5-2-4) means a person, including the Commission, who files a complaint under I.C. 22-9.5-6.
(Ord. 2013-1, passed 1-22-2013)

§ 97.03 UNLAWFUL PRATICE

Subject to the provisions of subsection (8) of this Section, Section §97.09 of this Ordinance and Title 22-9.5-3 of Indiana Code, the prohibitions against discrimination in the sale or rental of housing set forth Title 22-9.5-5-1 of Indiana Code and in Section §97.04 of this Ordinance shall apply to:

(A) All dwellings except as exempted by subsection (8) and Title 22-9.5-3 of Indiana Code.

(B) Other than the provisions of subsection (C) of this Section, nothing in Section §97.04 shall apply to:

1. Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at anyone time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at anyone time. The sale or rental of any such single family house shall be exempted from application of this section only if such house is sold or rented:

    a. without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and

    b. without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 4(C) of this Ordinance, but noting in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or

2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(C) For the purposes of subsection (B), a person shall be deemed to be in the business of selling or renting dwellings if:

1. They have, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

2. They have, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

3. They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five (5) or more families.

(Ord. 2013-1, passed 1-22-2013)

§ 97.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

As made applicable by Section §97.03 and except as exempted by Section §97.03(B) and §97.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

(C) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

(D) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(E) For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.

(F) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

1. that buyer or renter;
2. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
3. any person associated with that person.

(G) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

1. that person; or
2. a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
3. any person associated with that person.

(H) For purposes of this subsection, discrimination includes:

1. a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted;

2. a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

3. in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that;

    a. the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
    b. all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
    c. all premises within such dwellings contain the following features of adaptive design:

        i. an accessible route into and through the dwelling;
        ii. light, switches, electrical outlets , thermostats, and other environmental controls in accessible locations;
        iii. reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

Compliance with the appropriate requirement Americans with Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A 117.1) suffices to satisfy the requirements of paragraph (3) (C)(iii). Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health of safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.
(Ord. 2013-1, passed 1-22-2013)

§ 97.05 DISCRIMINATION IN RESIDENTIAL REAL ESTAET-RELATED TRANSACTIONS

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(B) As used in this section, the term residential real estate-related transaction means any of the following:

1. The making or purchasing of loans or providing other financial assistance:

   b. for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

   c. secured by residential real estate.

2. The selling, brokering, or appraising of residential real property.

(C) Nothing in this Ordinance prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Ord. 2013-1, passed 1-22-2013)

§ 97.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

(Ord. 2013-1, passed 1-22-2013)

§ 97.07 INTERFERENCE, COERCION, OR INTIMIDATION

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections §97.03, §97.04, §97.05 or §97.06 of this Ordinance.

(Ord. 2013-1, passed 1-22-2013)

§ 97.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

(A) any person because of his race, color, religion, sex, handicap, familial status, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(B) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

   1. participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A); or

   2. affording another person or class of persons opportunity or protection so to

participate; or

(C) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in subsection (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Ord. 2013-1, passed 1-22-2013)

§ 97.09 EXEMPTIONS

(A) Exemptions defined or set forth under Title 22-9.5-3 et. seq. of Indiana Code shall be exempt from the provisions of this Ordinance to include those activities or organizations set forth under subsections (§97.08) and (C)of this Section.

(B) Nothing in this Ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this Ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(C) Nothing in this Ordinance regarding familial status shall apply with respect to housing for older persons. As used in this Section, 'housing for older persons' means housing:

1. provided under any state orfederal program thatthe Secretary of the Federal Department of Housing and Urban Development or the state civil rights commission determines is specifically designed and operated to assist elderly person (as defined in the state or federal program) or;

2. intended for, and solely occupied by, person 62 years of age or older; or

3. intended and operated for occupancy by at least one person 55 years of age or older per unit.

(Ord. 2013-1, passed 1-22-2013)

§ 97.99 ADMINISTRATIVE ENFORCEMENT OF ORDINANCE

(A) The authority and responsibility for properly administering this Ordinance and referral of complaints hereunder to the Commissioner as set forth in subsection (8) hereof shall be vested in the Chief Elected Official of the Town of Spencer, Indiana.

(B) Notwithstanding the provisions of I.C. 22-9.5-4-8, the Town of Spencer, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the Ordinance, herein elects to refer all formal complaints of violation of the articles of this Ordinance by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to Title 22-9.5-6 of Indiana Code and the Chief Elected Official of the Town of Spencer, Indiana, shall refer all said complaints to the Commission as provided for under subsection (A) of this Section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under Title 22-9.5-6 of Indiana Code.

(C) All executive departments and agencies of the Town of Spencer, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

(D) The Chief Elected Official of the Town of Spencer, Indiana, or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 2013-1, passed 1-22-2013)

CHAPTER 98: DISCHARGE OF PROJECTILES/WEAPONS

Section

98.01 Definitions
98.02 Use of Weapons/Projectiles Prohibited
98.03 Permit to Discharge Weapons/Projectiles
98.04 Penalty

§98.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMMUNITION. Any material intended as a projectile including, but not limited to, bullets, pellets, BBs, arrows, shotgun shot, salt, stones or other missiles.

DISCHARGE. The propulsion of any ammunition by any weapon.

PROJECTILE. A body projected by external force and continuing in motion by its own inertia; a self-propelling weapon

WEAPON. A firearm, bow, slingshot, sling, air rifle or other similar device from which a projectile is shot or otherwise commonly propelled of a speed sufficient to penetrate the skin of a person or animal.
(Ord. 2017-11, passed 10-2-2017)

§98.02 USE OF WEAPONS/PROJECTILES PROHIBITED.

(A) No person shall discharge a weapon or projectile of any kind within the boundaries of the Town of Spencer except:
  (1) Law enforcement or members of the armed forces discharging a weapon or projectile in the proper performance of their duties,
  (2) Military personnel conducting military commemorative exercises at a funeral/cemetery provided that proper notification has been made, in writing, to the Spencer Town Board advising it of the date, time, and place of such activity. In no event shall live ammunition be used in the discharge of weapons,
  (3) By a person in the defense of one's life or property,
  (4) In a shooting range or area of similar nature established according to all applicable zoning regulations and permitting requirements established by this section.

(Ord. 2017-11, passed 10-2-2017)

§98.03 PERMIT TO DISCHARGE WEAPONS/PROJECTILES

(A) Permission to discharge weapons/projectiles may be granted under certain circumstances by the Spencer Town Board. An applicant must provide to the Spencer Town Board, in writing, the following for consideration:

(1) Name, address, and contact information for a person/organization wishing to discharge a weapon/projectile within the Town Limits
(2) Location of the area where the weapon/projectile will be discharged.
(3) A detailed description of the activities to be performed, including type of weapon(s)/projectiles to be used.
(4) Evidence of liability insurance, if applicable.

(Ord. 2017-11, passed 10-2-2017)

§98.99 PENALTY.

(A) Any person who violates any provision in this chapter shall be issued a citation by a Spencer Town Marshal.
(B) Fine. The fine for such a citation shall be the sum of $75.00 and the confiscation of the weapon or projectile.
(C) Confiscation of Weapon/Projectile. The weapon or projectile will be logged and stored with the Spencer Town Marshal for a period not to exceed one (1) year. The weapon/projectile will be returned to the violator upon the payment of the fine referenced in (B) above. If the violator is under the age of eighteen (18), then the weapon or projectile will be only be released to the parent or guardian of the violator. Any items remaining with the Spencer Town Marshal after one (1) year will be considered abandoned property and will be disposed of pursuant to law.
(D) Appeal of Violation. Any person wishing to appeal a violation of this chapter may do so in writing to the Spencer Town Board within ten (10) days of date of the citation. The Spencer Town Board will hear the appeal at its next regularly scheduled Town Board meeting. The appellant will be notified in writing by the Town Clerk Treasurer of the date and time at which the appeal will be heard.
(E) Payment. The fine referenced in (B) above must be paid within thirty (30) days of the issuance of the citation. The failure to pay within the time frame specified may result in additional penalties and charges and civil remedies shall be sought in the court having jurisdiction. Additional penalties to include reasonable attorney fees and court costs incurred by the town for collection of the account.

(Ord. 2017-11, passed 10-2-2017)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL PROVISIONS

111. PEDDLERS AND SOLICITORS

112. MOBILE FOOD VENDORS

CHAPTER 110: GENERAL PROVISIONS

Section

110.01 Alcoholic beverages

§ 110.01 ALCOHOLIC BEVERAGES.

Town will authorize certain special sales or spirituous, venous, malt or other intoxicating liquors to be consumed on the premises and within the Town of Spencer, Indiana only upon proper application in accordance with the Indiana Alcoholic Beverages laws and rules in particular in accordance with I.C. 7.1-3-16-5.5 and I.C. 7.1-3-6-3.6.
(Prior Code, Ch. 1, Art. VII)

CHAPTER 111: PEDDLERS AND SOLICITORS

Section

111.01 Regulating canvassers and solicitors

§ 111.01 REGULATING CANVASSERS AND SOLICITORS.

(A) *Registration required.* It shall be unlawful for any person to engage in business as a canvasser or solicitor at residences without the previous consent of the occupant for the purpose of soliciting orders, sales, subscriptions, or business of any kind, or seeking information or donations without first registering in the Clerk-Treasurer's office. A person shall give his or her and any other persons affiliated with his or her local requested activities complete identification to include a copy of a pictured identification card, his or her signature, employer's name, the nature of the products or service offered, the names of any manufacturers of products or names of organizations he or she represent, and his or her proposed method of operation within the town.

(B) *Fee.* Each registrant shall pay to the Clerk-Treasurer a fee of $25 for a permit, which will expire 90 days after the date of registration issue.

(C) *Certificate.*

(1) Any person who shows evidence of good character and pays the fee shall be furnished a permit certifying that he or she is registered, and the dates covered by the certificate.

(2) Any person shall, while soliciting or canvassing, carry upon his or her person the certificate and show it when required, to any police officer, person inquiring or being solicited.

(D) *Exceptions.* The provisions of this section shall not apply to officers or employees of the town, country, state or federal government, or any subdivision of such when on official business.

(E) *Revocation.* Any registration may be revoked by the Town Council or Chief Marshal if the registrant violates any ordinances of the town, or violates any state or federal law, or if the registrant ceases to qualify for the registration.

(F) *Consent of occupant.* The practice of going in and/or upon private residences in the town by solicitors, peddlers, itinerant merchants, or transient vendors of merchandise, who were not invited by the owner or occupant of the private residence and who do not immediately leave when requested by the owner or occupant , shall be declared to be a nuisance.

(G) *Hours of operation.* Any person who engages in business as a canvasser or solicitor at residences shall abide by the Town of Spencer hours of operation 9:00 a.m. to 9:00 p.m.
(Prior Code, Ch. 22, Art. XV)

CHAPTER 112: MOBILE FOOD VENDORS

Section

112.01	Applicability
112.02	Definitions
112.03	Application, License, and Fees
112.04	Veterans and Not for Profit Organizations Right to License Without Fee
112.05	General Regulations
112.06	Penalties for Violation; Enforcement

§112.01 APPLICABILITY

The provisions of this section shall apply to all mobile food vendor units that are used to store, prepare, display, or serve food or beverage with or without charge whether operated on public or private property.

This shall not include any person selling fruits, vegetables, or farm products grown by himself/herself or other homemade products at the local Farmers Market.
(Ord 2018-12, passed 9/4/2018)

§112.02 DEFINITIONS

BEVERAGE means any liquid, hot or cold, intended for use in whole or in part for human consumption.

CERTIFIED FOOD HANDLER means an individual who is an owner, operator, manager or employee of a food establishment who is responsible for or oversees the storage, preparation, display, or serving of food to the public and holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the State of Indiana Department of Health.

FARMERS MARKET a food market at which local farmers sell fruit and vegetables and often meat, cheese, and bakery products directly to consumers at a fixed location approved by the Town of Spencer.

FOOD means any raw, cooked, frozen or processed edible substance intended for use n whole or in part for human consumption

MOBILE FOOD VENDOR UNIT means any self-contained mobile unit, independent with respect to water, sewer, and power utilities, capable of moving or being moved, is meant to be portable, and is not permanently attached to the ground, and contains equipment used for the sale and/or preparation of food or beverages and is closed up when not in operation.

PRIVATE PROPERTY means any property belonging to a person or entity that is not owned or operated by a governmental entity.

PUBLIC PROPERTY means property owned or dedicated for public use by the city, town, or state. This shall include roadways, sidewalks, and rights-of-way under the jurisdiction and control of the Town of Spencer.

SPECIAL EVENT means a Town Council approved event that is customarily held annually in the Town of Spencer, including, but not limited to the Spencer Apple Butter Festival, Owen County Fair, or the Spencer Pride Festival.

VENDOR means a person or company offering something for sale by means of a mobile food vendor unit.
(Ord 2018-12, passed 9/4/2018)

§112.03 APPLICATION, LICENSE, AND FEES

A. *Application:*Any vendor wishing to operate a Mobile Food Vendor Unit within the corporate boundaries of the Town of spencer must first apply for a Mobile Food Vendor License on a form prescribed by the Spencer Town Board. Separate applications shall be required for each Mobile Food Vendor Unit operating with the Town of Spencer. All applications shall be forwarded to the Spencer Town Clerk-Treasurer and will be reviewed by the Spencer Town Board within 30 days of the date of the application.

B. *Application Fee:* The application fee shall be the sum of $_____ which shall be paid at the time of application submission. In the event the Mobile Food Vendor License is denied, $25.00 of the application fee shall be retained to defray the administrative expenses incurred in the investigation and processing of the application, any remainder shall be refunded to the applicant.

C. *Mobile Food Vendor License*: The license shall be valid for the period specified on the license and said period shall not exceed one (1) year from the date of issuance. All licenses shall be prominently displayed on the Mobile Food Vendor Unit. Licenses issued under this section are non-transferable.
(Ord 2018-12, passed 9/4/2018)

§112.04 VETERANS AND NOT FOR PROFIT ORGANIZATIONS RIGHT TO LICENSE WITHOUT FEE

A. Any veteran described in IC 10-17-5-2 or IC 10-17-5-1 or any other veteran who holds an honorable discharge from such service issued by the property authorities shall be exempt from the payment of any fee for a license under this chapter. This does not exempt the person from filing the proper application or from complying with all other sections of this chapter.
B. Any organization that is tax exempt under IC 6-2.5-5-21(b)(1)(B), (C), and (D) is exempt from the payment of any fee for a license under this chapter.
(I.C. 25-25-2-1, I.C. 16-18-2-137)(Ord 2018-12, passed 9/4/2018)

§112.05 GENERAL REGULATIONS

A. All vendors shall provide proof of general liability insurance in the amount of not less than $1,000,000 per occurrence and $2,000,000 aggregate and proof must be submitted at the time of application.

B. All vendors shall provide proof of obtaining the appropriate temporary vendor permits from any State or County Health Department and provide proof of the same with the application.

C. Any applicant for a Mobile Food Vendor License shall comply with all federal and state regulations, including, but not limited to, the requirement for at least one (1) certified food handler. Proof of certifications must be presented at the time of application.

D. A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner and the same must be submitted at the time of application.

E. No Mobile Food Vendor Unit shall operate on public property, including streets, sidewalks, or town rights-of-way without the approval of the Spencer Town Board.

F. No Mobile Food Vendor Unit may operate within one block from the perimeter of a special event unless prior approval has been granted by the organizer/operator of the special event.

G. No Mobile Food Vendor Unit shall operate within fifty (50) feet of any façade of a ground level establishment that also sells food or beverages or operate within fifty (50) feet of the perimeter of such an establishments outdoor seating area.

H. A Mobile Food Vendor Unit may not interfere or obstruct the free passage of pedestrians or vehicles along any street, sidewalk, road, or parking lot or operate in such a way that would endanger the public safety or property.

I. A Mobile Food Vendor Unit shall not park within 20 feet of any intersection, bus stop, crosswalk, driveway, alleyway, building entrance, or walk up window or within 15 feet of any fire hydrant. No Mobile Food Vendor Unit shall be located or operate in an alleyway.

J. No Mobile Food Vendor Unit maybe equipped with any external electronic sound.

K. Except as otherwise provided herein, all signs must be permanently affixed to or painted on the Mobile Food Vendor Unit and shall not extend more than six inches from the vehicle. No sign shall flash, cause interference with radio, telephone, television, or other communication transmissions; produce or reflect motion pictures, emit visible smoke, vapor, particles or offensive odor; be animated or produce any rotation, motion or movement. Each Mobile Food Vendor Unit shall be permitted to display no more than one (1) sandwich board sign so long as it does not exceed four feet in height, two feet in width, or eight square feet in total area. Each sign must be located within ten (10) feet of the location of the Mobile Food Vendor Unit and shall not obstruct free passage of pedestrians or vehicles along any street, sidewalk, road, or parking area. Said signs must be removed each day by the Vendor.

L. All exterior lights with over 60 watts shall contain opaque hood shields to direct the illumination downward.

M. All Mobile Food Vendor Units must offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of such Mobile Food Vendor Unit shall be collected and disposed of off-site by the Vendor each day. Vendors shall properly dispose of any gray water, grease or oil.

N. Any power required for the Mobile Food Vendor Unit shall be self-contained and shall not require the use of utilities from a public right-of-way.

O. No Mobile Food Vendor Unit shall be parked on a public street, alley, or right-of-way overnight.

P. Mobile Food Vendor Units may operate between the hours of 8:00 a.m. and 9:00 p.m.
(Ord 2018-12, passed 9/4/2018)

§112.06 PENALTIES FOR VIOLATION; ENFORCEMENT

A. Penalties for violation of this Chapter are subject to the penalty provisions of §10.99.

B. The Town may initiate a civil action in a court of competent jurisdiction to restrain any person from violating the provisions of this Chapter. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code, plus the cost of filing and reasonable attorney fees.
(Ord 2018-12, passed 9/4/2018)

TITLE XIII: GENERAL OFFENSES

[*RESERVED*]

TITLE XV: LAND USAGE

Chapter

150.BUILDING REGULATIONS; CONSTRUCTION

151.FLOOD DAMAGE PREVENTION

152.ZONING

153.SUBDIVISIONS

154.ECONOMIC REVITALIZATION AREAS

155.RENTAL HOUSING

156.REDEVELOPMENT COMMISSION

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

General Provisions

150.01 Title
150.02 Purpose
150.03 Authority
150.04 Scope
150.05 Definitions
150.06 Rules; adopted by reference

Building Permits

150.20 Application for permit
150.21 Permit required
150.22 Non-anchored semi-trailers and mobile homes
150.23 Accessory structures, detached garages and carports that do not require a town building permit
150.24 Work to comply with other applicable regulations
150.25 Fees
150.26 Early start; additional fee
150.27 Waiver of fee
150.28 Review of application

Hazardous Structures and Unsafe Dwellings

150.45 Purpose
150.46 Definitions
150.47 Dwellings declared a public nuisance
150.48 Notification to owner
150.49 Inspection of premises
150.50 Report of inspection
150.51 Official order to remedy conditions
150.52 Service of order
150.53 Notice to the public
150.54 Hearings
150.55 Razing the structure/dwelling
150.56 Salvage materials

150.99 Penalty

GENERAL PROVISIONS

§ 150.01 TITLE.

This chapter and all regulations supplemental or amendatory hereto shall be known as the Building Code of the Town of Spencer, and may be cited as such and will be referred herein as this chapter.
(Prior Code, Ch. 12, Art. 12.01(A))

§ 150.02 PURPOSE.

The purpose of this chapter is to provide minimum standards for the protection of life, limb, health, environment, public safety and welfare, and for the conservation of energy in the design and construction of buildings and structures.
(Prior Code, Ch. 12, Art.12.01(B))

§ 150.03 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this chapter. Whenever in this chapter, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or other officer designated by the Building Commissioner, it shall be construed to give the officer only the discretion of determining whether the rules and standards established by ordinance have been complied with. No provision shall be construed as giving any officer discretionary powers to require conditions not prescribed by ordinance or state codes, or to enforce ordinance provisions in an arbitrary or discriminatory manner.
(Prior Code, Ch. 12, Art.12.01(C))

§ 150.04 SCOPE.

The provisions of this chapter apply to the construction, alteration, repair, use, occupancy, maintenance, and addition to all buildings and structures, other than industrialized building systems or modular structures certified under I.C. 22-15-4, in the Town of Spencer. See Local Regulations Concerning Setbacks and §§ 31.20 *et seq.* and §§ 152.001 *et seq.* which cover the Zoning in the Town of Spencer.
(Prior Code, Ch. 12, Art. 12.01(D))

§ 150.05 DEFINITIONS.

(A) The definitions set forth in I.C. 22-12-1 of the following terms are hereby incorporated by reference in this chapter.

(B) For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

AGRICULTURAL PURPOSE. Farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry and poultry husbandry.
(I.C. 22-12-1-2)

BUILDING LAW. Any fire safety law, equipment law, or other law governing any of the following:

(a) Fabrication of an industrialized building system or mobile structure for installation, assembly, or use at another site;

(b) Construction, addition, or alteration of any part of a Class 1 or Class 2 structure at the site where the structure will be used; and

(c) Assembly of an industrialized building system or mobile structure that is covered by neither subdivision (1) nor (2) above.
(I.C. 22-12-1-3)

CLASS 1 STRUCTURE.

(a) Any part of the following:

1. A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

a. The public;

b. Three or more tenants; and/or

c. One or more persons who act as the employees of another.

2. A site improvement affecting access by the physically handicapped to a building or structure described in division (a)1.a. above.

3. Any class of buildings or structures that the Commission determines by rules to affect a building or structure described in division (a)1 above, except buildings or structures described in divisions (b) through (e) below.

(b) Division (1)(a) above includes a structure that contains 3 or more condominium units (as defined in I.C. 32-25-2-9) or other units that:

1. Are intended to be or are used or leased by the owner of the unit; and

2. Are not completely separated from each other by an unimproved space.

(c) Division (1)(a) above does not include a building or structure that:

1. Is intended to be or is used only for an agricultural purpose on the land where it is located; and

2. Is not used for retail trade or is a stand used for retail sales of farm produce for 8 or less consecutive months in a calendar year.

(d) Division (a)1. above does not include a Class 2 structure.

(e) Division (a)1. above does not include a vehicular bridge.
(I.C. 22-12-1-4)

CLASS 2 STRUCTURE.

(a) Any part of the following:

1. A building or structure that is intended to contain or contains only 1 dwelling unit or 2 dwelling units unless any part of the building or structure is regularly used as a Class 1 structure; and

2. An outbuilding for a structure described in division (a) above, such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(b) Division (a) above, does not include a vehicular bridge.
(I.C. 22-12-1-5)

COMMISSION. The Fire Prevention and Building Safety Commission.
(I.C. 22-12-1-6)

CONSTRUCTION. Any of the following:

(a) Fabrication of any part of an industrialized building system or mobile structure for use at another site;

(b) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;

(c) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used; and

(d) Work undertaken to alter, remodel, rehabilitate, or add to any part of a Class 1 or Class 2 structure; and

(e) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.
(I.C. 22-12-1-7)

CONTROL. The authority to create, change, or eliminate a condition or to initiate, regulate or terminate conduct that is based on any of the following:

(a) An agency, employment, or contractual relationship;

(b) A possessory or non-possessory ownership or leasehold interest in property; and

(c) A contractual right to possess or use property.
(I.C. 22-12-1-7)

DEPARTMENT. The Fire and Building Services Department.
(I.C. 22-12-1-9)

EQUIPMENT LAW. A statute or rule under this section, I.C. 22-13, or I.C. 22-15 that applies to the design, manufacture, fabrication, assembly, installation, alteration, repair, maintenance, operation, or inspection of a regulated amusement device, boiler, lifting device, or pressure vessel.
(I.C. 22-12-1-11)

FIRE SAFETY LAW. Any building law, equipment law, or other law safeguarding life or property from the hazards of fire or explosion.
(I.C. 22-12-1-13)

FIRE TERRITORY. The participating unit that is responsible for providing fire protection services within the territory established under I.C. 36-8-19.
(I.C. 22-12-1-12)

INDUSTRIALIZED BUILDING SYSTEM.

(1) Any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure.

(2) However, the term does not include a mobile structure or a system that is capable of inspection at the building site.
(I.C. 22-12-1-14)

LAW. Any statute, rule, ordinance or other regulation.
(I.C. 22-12-1-15)

MANUFACTURED HOME. As set forth in 42 U.S.C. §§ 5401 *et seq.* as it existed on January 1, 2007, a structure, transportable in one or more section, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter; and except that such term shall not include any self-propelled recreational vehicle.
(I.C. 22-12-1-16)

MOBILE STRUCTURE.

(a) Any part of a fabricated unit that is designed to be:

1. Towed on its own chassis; and

2. Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

(b) The term includes the following:

1. Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; and

2. Two or more units that are separately towable but designed to be joined into 1 integral unit.
(I.C. 22-12-1-17)

PERSON. An individual, corporation, partnership, unincorporated association, or governmental entity.
(I.C. 22-12-1-18)

STRUCTURE. Includes swimming pools, signs and sign supports and fences.
(I.C. 22-12-1-24) (Prior Code, Ch. 12, Art. 12.01(E))

§ 150.06 RULES; ADOPTED BY REFERENCE.

(A) The following rules, regulations and codes are hereby adopted by reference as the rules and regulations governing the construction and alternation of buildings and structures in the town, and these rules, regulations and codes shall include the most current editions thereof; as the same are published in the Indiana Register or the Indiana Administrative Code:

(1) State Building Code;

(2) State Building Code Standards;

(3) State Handicapped Accessibility Code;

(4) State Fire and Building Safety Standards (675 I.A.C. 13-1), originally published as 8 IR 1301 under that title, which incorporates by reference the National Fire Protection Association (NFPA) Standards;

(5) State Electrical Rules, IER, which identifies, amends and incorporates therein the National Electric Code, NEC;

(6) State Safety Code for Health Care Facilities, which identifies, amends and incorporates therein National Fire protection Association (NFPA) Standard, NFPA 99;

(7) State Plumbing Code, which identifies, amends and incorporates therein the Uniform Plumbing Code;

(8) State Mechanical Code, which identifies, amends and incorporates therein the Uniform Mechanical Code;

(9) State Flammable and Combustible Liquids and Gases Code, which identifies, amends and incorporates therein 8 National Fire Protection Association Standards;

(10) One and 2 family dwelling code of the state, which identifies, amends and incorporates therein the 1 and 2 Family Dwelling Code;

(11) State Energy Conversation Code, which identifies, amends and incorporates therein the model Energy Code; and

(12) State Swimming Pool Code.

(B) Copies of this code and rules, regulations and codes adopted herein by reference, are on file as required by law in the office of the Town Building Inspector.
(Prior Code, Ch. 12, Art. 12.01(F)

§ 150.07 SETBACK REQUIREMENTS.

(A) All buildings and structures shall be built, constructed, erected, set and/or placed on private and/or public property according to the requirements on setbacks established in this section.

(B) When applicable, all setbacks shall be measured from the inside of the sidewalk and/or street, road, alley or other public right-of-way. The "inside" shall mean the side towards or closest to the building or structure that is subject to the setback requirement.

(C) Setback from property lines shall be measured from the property line. The property line shall be the point where one person(s), firm(s), company(s), corporations(s), association(s), government(s), or other entity(s) real property begins.

The following setback requirements apply in all applicable zoning districts.

(1) *Sidewalks*. Where there are established and existing sidewalks, the minimum setback from the sidewalk shall be measured from the inside of the sidewalk:

(a) All residential building or structures: 5 feet.

(b) All commercial and/or business buildings or structures: 10 feet.

(c) All industrial buildings or structures: 10 feet

(d) All other buildings and structures: 10 feet.

(2) *No sidewalks*. Regardless of the building or zoning classification where there are no established or existing sidewalks, the minimum setback from the street, road, or other public right-of-way shall be 15 feet and shall be measured from the inside of the street, road or other public right-of-way. The minimum setback requirement for a building or structure from an alley shall be 3 feet from the public right-of-way.

(3) *Property lines*.

(a) All residential buildings or structures: 5 feet.

(b) All other buildings or structures regardless of building or zoning classification: 10 feet

(4) *Fences*.

(a) Property line fences may be built on the property line.

(b) All other locations:

1. Fences shall be installed and/or erected at least 6 inches from the inside of all established and existing sidewalks.

2. Where no sidewalk(s) exist, fences shall be installed and/or erected at least 10 feet measured from the inside of the street, road or other public right-of-way.

3. In alleys, fences shall be installed and/or erected 3 feet from the public right-of-way.

(5) *Utilities.*

(a) Utilities shall be set back at least 2 feet from the inside of all established and existing sidewalks.

(b) Where no sidewalks exist, utilities shall be set back at least 12 feet measured from the inside of the street, road or other public right-of-way.

(c) From an alley, utilities shall be set back at least 3 feet measured from the public right-of-way.

(d) This minimum distance shall be measured from the outer-most part of the utility.

(e) Utility in this subsection includes but is not limited to poles, towers, lines, wires, conduits, pipes, drains, meters, valves, and pumps but does not include buildings, structures or hydrants.

(a) Hydrants fall under the jurisdiction of the Fire Department of the town pursuant to Indiana State law.

(6) *Other*.

(a) Any object that is not specifically mentioned elsewhere in this section including but not limited to the following: flag poles, antennas, towers, satellite dishes, playhouses, birdbaths and other yard ornaments, shall be set back:

(1) A minimum of 0 feet from the property lines, 6 inches from existing sidewalks;

(2) A minimum of 10 feet from a road, street, or other public right-of-way where no sidewalk exists, and

(3) A minimum of 3 feet from an alley measured from the public right-of-way.

(b) However, this provision shall not apply where the object is not anchored to the ground, is easily moved and weighs less than 50 pounds. This subsection does not apply to utilities identified in the subsection above.
(Ord. 1993-02, passed 4-5-1993)

BUILDING PERMITS

§ 150.20 APPLICATION FOR PERMIT.

(A) No permit shall be issued for the foregoing purposes, unless the application for the permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing all the work to be done.

(B) All plans for commercial building construction are under the authority of the State Fire Prevention and Building Safety Commissioner and must also be filed with the State Building Commissioner. No local commercial permits shall be issued hereunder until a copy of a release for construction from the State Building Commissioner is received by the Building Commissioner.

(C) One and 2 family residential dwellings will be solely under the jurisdiction of the Town Building Commissioner. The time period for use of a building permit shall run for 1 year from the date of issuance. If the building is not completed by then, the party shall re-apply paying only the renewal fee. However, the Building Commissioner shall from time to time extend the expiration time periods at his or her discretion.
(Prior Code, Ch. 12, Art. 12.02(A))

§ 150.21 PERMIT REQUIRED.

(A) A permit shall be obtained before beginning any construction, alteration, or repair of any building or structure, the value of which exceeds $500, which involves or affects electrical, plumbing, ventilating, heating, air condition systems, or structural elements. This section shall not be interpreted to require a building permit:

(1) For cosmetic repairs and or maintenance (e.g., floor coverings, painting or roofing); and

(2) For the repair or maintenance of a private home performed by the occupant thereof.

(B) All permits shall be issued by the Building Commissioner, and all fees provided for it this subchapter shall be paid to the Clerk-Treasurer. All permits shall expire 1 year from the date of the original issue unless renewed or extended.
(Prior Code, Ch. 12, Art. 12.02(B))

§ 150.22 NON-ANCHORED SEMI-TRAILERS AND MOBILE HOMES.

(A) Any non-secure, portable semi-trailer, trailer or mobile home that has been on the same property for a period of more than 180 days without being moved from that property, must obtain a building permit and comply with all pertinent town codes.

(B) Each unit must be properly tied down and anchored in conformance to the town's mobile home requirements.

(C) The unit must also be properly skirted and maintained in good condition so as not to create an unsightly appearance or unsafe environment.

(D) Violations are subject to reasonable penalties imposed by the current town codes and ordinances in § 150.26.
(Ord. passed - -)

§ 150.23 ACCESSORY STRUCTURES, DETACHED GARAGES AND CARPORTS THAT REQUIRE A TOWN BUILDING PERMIT.

(A) *Portable single story units with less than a total of 120 square feet.* However, the structure must be properly anchored down by any tie down device that secures the mobile structure to the ground, so as to avoid lateral, vertical or uplift movement due to wind pressure from any direction. The structure must also contain no more than 15 AMP electrical service. Permanent heat and water supply sanitation are not
permitted.

(B) *Single story units with monolithic footing containing less than 721 square feet (8 feet W x 18 feet D, 12 feet w x 12 feet).* The slab must contain a welded wire fabric or equivalent. The unit may contain 1 permanent heat and 1 water supply sanitation. All electrical, floors, exterior walls and/or roof systems and/or girders and headers shall comply with 1 and/or 2 family dwelling codes.

(C) *Note.* All stick built units must have prior approval by the Building Inspector and/or Commissioner to ensure that construction methods and materials used do not create an unsightly appearance or present a safety hazard. Plans and/or drawings along with materials list shall be submitted with all written requests prior to starting the project. Approval of the project shall be at the sole discretion of the Building Commissioner. However, a denial may be appealed to the Board of Zoning Appeals and the Town Council. Violations subject to reasonable penalties (demolition and momentarily) as imposed by the Town Council, not to exceed $500.
(Ord. passed - -)

§ 150.24 WORK TO COMPLY WITH OTHER APPLICABLE REGULATIONS.

All work done under any permit issued under this subchapter shall be in full compliance with all other regulations pertaining thereto, and in addition to the fees for permits hereinafter provided for, there shall be paid the fees prescribed in those regulations.
(Prior Code, Ch. 12, Art. 12.02(C))

§ 150.25 FEES.

(A) The fees for all permits required under the provisions of this subchapter shall be the fees set forth below. All fees will be charged in even-dollar sums only.

Type of Construction	***Required Inspections***	***Permit Fee***
Class 1 Structures	Minimum of 3	$0.20 square feet. Maximum $6,000
Class 2 Structures	3-4	$100 for up to 1,250 square feet and $0.10 square feet for each square feet over. Maximum $1,500
Additions and alterations*	1-3	$0.10 square feet. Maximum $1,500
Accessory buildings	1-2	$0.05 square feet. Maximum $750

Swimming pools	1	$25
Electric service upgrade**	1	$25
Plumbing/install or extend	1	$25
Sidewalks/grading	2	$25
Driveways	2	$25
Fences	2	$25
Moving of building	1	$25
Demolition	1	$25
Renewal Fee		$25
*Additions and alterations do not structurally alter an existing load bearing wall or foundation. **An electrical upgrade is any alteration to an electrical system requiring the disconnecting of electrical service to the structure in order to perform the electrical upgrade.		

(B) Inspections: A fee of $25.00 shall be charged for each required inspection (listed above).

(C) For unusually large or complex buildings or structures, the Building Inspector shall have the power to increase the number of required inspections as needed. The Building Commissioner shall in all cases designate the stage of construction when each required inspection must be requested by the permit holder. No concrete shall be placed for foundations without prior inspection. No electrical, structural, mechanical, plumbing, or thermal insulation work shall be covered prior to the inspection.

(D) Where additional inspections are required due to failure of the permit holder to have work ready for inspection at a designated state of construction, the Building Inspector shall have the power to assess a re-inspection fee of $25 for each additional inspection.

(E) The Building Inspector shall submit routine reports as needed and an annual report (on or before January 31) to the Town Council of inspections performed and permit fees collected on all permits. The report shall include an analysis of inspections performed, permit fees collected, cost of inspection operations and recommendations for adjustment of required inspections and single inspection fees as necessary.
(Prior Code, Ch. 12, Art. 12.02(D), (Am. Ord. 2012-3, passed 11-5-12)

§ 150.26 EARLY START; ADDITIONAL FEE.

(A) Any person, firm, partnership, or corporation who knowingly starts construction prior to applying for and receiving a building permit shall be charged a fine. Said fine shall be assessed as follows:

1st offense in a 3 year time frame	1 time the original permit fee
2nd offense in a 3 year time frame	2 times the original permit fee
3rd offense in a 3 year time frame	3 times the original permit fee

(B) There shall be a fee of $25 for each additional inspection required, in additional to all other fees provided for in this chapter.
(Prior Code, Ch. 12, Art. 12.02(E))(Am. Ord. 2009-12, passed 6-1-2009)

§ 150.27 WAIVER OF FEE.

(A) The Town Council shall have the authority to waive all or any part of the fees required herein for the permit and or inspections.

(B) The determination for a waiver of all or part of the fees required by this subchapter for a building permit or inspection shall lay within the sole discretion of the Spencer Town Council.
(Prior Code, Ch. 12, Art. 12.02(F))

§ 150.28 REVIEW OF APPLICATION.

Prior to the issuance of any building permit under this subchapter, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with the provisions of this subchapter;

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding;

(C) Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair:

(1) Uses construction materials and utility equipment that are resistant to flood damage; and

(2) Uses construction methods and practices that will minimize flood damage.

(D) Review building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction, including prefabricated and mobile homes:

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure and flood damage; and

(3) Uses construction methods and practices that will minimize flood damage.
(Prior Code, Ch. 12, Art. 12.02(G))

HAZARDOUS STRUCTURES AND UNSAFE DWELLINGS

§ 150.45 PURPOSE.

This subchapter declares that hazardous structures and unsafe dwellings are a public nuisance; it provides for notification to owners and inspection of premises; it provides for the issuance of orders to remedy conditions; it authorizes the razing of hazardous structures and unsafe dwellings; and it provides penalties for failure to abate the public nuisance when ordered to do so.
(Prior Code, Ch. 14, Art. I)

§ 150.46 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

COMMISSIONER. The Town Manager serving in his or her capacity as the Spencer Commissioner of Buildings.

HAZARDOUS STRUCTURE. Any building or structure, or any part thereof, that is in an impaired structural condition or state which renders it unsafe or dangerous to any person or property; is a fire hazard; is a hazard to the public health; is a public nuisance; or it does not comply with local standards for building condition or maintenance as found in any ordinance of the town or in state law.

ORDER. Any written directive issued by the Town Council.

OWNER. Any entity capable of holding an interest in real estate, including but not limited to, individuals, corporations, and companies.

UNSAFE DWELLING. Any part of any building or premises used as a place or residence or habitation or for sleeping by any person when it is dangerous or detrimental to life or health because of want of repair, defects in the drainage, plumbing, lighting, ventilation or construction, infection with contagious disease, or the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling, or is considered "unfit for human habitation".
(Prior Code, Ch. 14, Art. II)

§ 150.47 DWELLINGS DECLARED A PUBLIC NUISANCE.

In accordance with authority provided by the Indiana Code, the Town Council hereby declares that hazardous structures, dangerous buildings adjoining streets, and unsafe dwellings which are unfit for human habitation to be public nuisances and a public nuisance which shall be abated when so ordered by the Town Council.
(Prior Code, Ch. 14, Art. III)

§ 150.48 NOTIFICATION TO OWNER.

(A) *Owner advised of condition.* When the Board determines that a structure is in the condition that it creates a fire hazard, or it endangers the public health, safety and welfare, or it is a dwelling unfit for human habitation, it will request the Commissioner to send a letter to the owner (or person responsible for the property) outlining the condition of the structure, and pointing out how it endangers the public. The owner will be requested to repair the structure if it is repairable or to raze it and remove the debris from the premises.

(B) *Owner's cooperation solicited.* The Commissioner will solicit the owner's cooperation and will provide a reasonable length of time for the owner to initiate action. In addition, the Commissioner will meet with the owner, if he or she so desires, to discuss the matter and attempt to arrive at a mutually agreeable course of action.

(C) *Owner fails to cooperate.* If the owner elects not to cooperate voluntarily, the Commissioner will take the actions prescribed by this subchapter to cause the repair or razing of hazardous structures and unsafe dwellings to protect the health, safety, and welfare of the citizens of the town.
(Prior Code, Ch. 14, Art. IV)

§ 150.49 INSPECTION OF PREMISES.

(A) *Formal inspection of structure/dwelling.* If the owner fails to cooperate and fails to abate the public nuisance, the Commissioner will conduct a formal inspection of the structure or dwelling and will, if necessary, question the owners, lessee, or occupants, or anyone else having knowledge of the facts regarding the structure or dwelling. It is the duty of all the persons to assist the Commissioner in finding the true facts.

(B) *Right of free access.* The Commissioner shall have the right of free access to the structure or dwelling during all reasonable hours. If the structure or dwelling is vacant or abandoned, or access is denied or unavailable, the Commissioner may use the force as is reasonably necessary to effect entrance and to complete his or her inspection.

(C) *Use of other governmental agencies.* The Commissioner shall, if he or she deems the action necessary or desirable, request assistance of the Fire, Police, Health and Welfare Departments to insure that all phases of the public safety, health and welfare are fully considered during his or her inspection of the structure or dwelling.
(Prior Code, Ch. 14, Art. V)

§ 150.50 REPORT OF INSPECTION.

(A) The Commissioner shall prepare a written report of the findings of his or her inspection and the report will be filed in the office of the Spencer Commissioner of Buildings, Municipal Building. This report will show the location of the structure or dwelling, its owner, the date and time of the inspection, the names of the persons making the inspection and will include statements as to the physical condition of the structure, an estimate of its value, the probable costs of repair, and the Commissioner's recommendations for repair, improvement or demolition.

(B) The report shall also have attached to it photographs made of the structure or dwelling at the time of the inspection and so certified by the Commissioner.
(Prior Code, Ch. 14, Art. VI)

§ 150.51 OFFICIAL ORDER TO REMEDY CONDITIONS.

(A) *Order to take remedial action.* The Commissioner will provide the Town Council with his or her report of inspection, and based thereon if the Board concurs, the Board will issue a written order directing that necessary remedial action be taken and will cause the order to be served upon and notice given to those persons affected by it. This order will specify the general nature of any repairs, alterations, reconstruction, or other steps that are found to be feasible and reasonably required to be done in order to remedy the conditions which were found to exist. The order will also specify a reasonable length of time (normally 30 days) to comply with the provisions of the order.

(B) *Order to condemn and raze.* If, in the opinion of the Board, the condition of the structure is such that economical repair is not feasible (or if repairs would cost more than 50% of the value of the building) the structure will be condemned and it shall be ordered razed and the debris removed from the premises.

(C) *Order to vacate.* The Board has the power and authority to compel all occupants of unsafe dwellings unfit for human habitation and hazardous structures to vacate and remain out of them. It shall be the duty of all members of the Police and Fire Departments, or other peace officers, to assist in the

enforcement of such an order issued by the Board.

(D) *Extension in compliance with order.* Although all persons concerned shall comply promptly and fully with the order, the Board may, upon a showing of reasonable necessity, grant an extension of time for compliance.
(Prior Code, Ch. 14, Art. VII)

§ 150.52 SERVICE OF ORDER.

(A) *Personal service.* If the names and addresses of the owner or other person(s) having an interest in the property, as secured by a recorded mortgage or written contract, can be found upon reasonable inquiry, a written copy of the order will be served on them personally or by leaving a copy at their last known place of residence. Service of the order will be shown by affidavit of the person serving it. If there is a question of the competency of the person to be served, a copy will also be served on his or her legal guardian or custodian.

(B) *Service by registered mail.* If personal service cannot be made, but addresses are known, service may be made by using registered United States mail, with return receipt requested.

(C) *Service by publication of notice.* If personal service cannot be made and addresses are not known, notice of the order will be given by publication 1 time in the *Spencer Evening World* and the *Owen Leader* newspapers.
(Prior Code, Ch. 14, Art. VIII)

§ 150.53 NOTICE TO THE PUBLIC.

(A) When the condition of a structure is such that it is hazardous, unsafe and/or dangerous, or if an unsafe dwelling is considered unfit for human habitation, a notice will be placed in conspicuous places on the structure by the Commissioner which will read as follows: This building is in an unsafe condition and it must not be used or entered by anyone without the written permission of the Board of Trustees of Spencer, Indiana.

(B) This notice, after being posted for 24 hours, will constitute sufficient notice to all tenants or occupants of the premises, to all persons entering the building, to all agents of the owners or lessees having control of the building, and it shall constitute notice to all persons having mere statutory liens upon the property.
(Prior Code, Ch. 14, Art. IX)

§ 150.54 HEARINGS.

(A) *Notice to owner.* If any person fails to comply with an order directing that a hazardous structure or unsafe dwelling be repaired, evacuated, or razed within the time limit established by the Board, a written notice will be served upon the owner of the building to appear before the Board at a time and place fixed in the notice and show cause why the order should not be complied with. The Board shall hear the matter and then affirm, modify or rescind the order. If the order is affirmed, the Board shall take steps to cause the structure to be repaired, evacuated or razed.

(B) *Right of appeal.* Any person who may be aggrieved by the action of the Board shall have the right to appeal to the Circuit Court of Owen County. The appeal shall be taken within 10 days after the date that the Board's decision is rendered. Service of written notice of intent to appeal the Board's action will stay further action by the Board.
(Prior Code, Ch. 14, Art. 10)

§ 150.55 RAZING THE STRUCTURE/DWELLING.

(A) *Collection of cost.* If the owner refuses or neglects to abate the nuisance (i.e. raze the structure/ dwelling and remove the debris from the premises) the Board may take the action as is necessary to cause the abatement and collect the costs incurred by civil suit or by placing the costs on the tax duplicates for property involved. Additional penalties to include reasonable attorney fees and court costs incurred by the town for collection of the account.

(B) *Use of qualified wrecking organizations.*

(1) The razing of large unsafe and dangerous structures shall be done by qualified wreckers. It shall be the duty of the Town Council to give notice by posting a copy of request for bids in the office of the Spencer Commissioner of Buildings for at least 10 days prior to the time stated in the notice that the bids will be received for wrecking the building. The bid may be awarded to the lowest and most responsive bidder. The contract shall be executed by the Board and shall contain the provisions as are deemed proper and shall contain a clause that the contract is executed by the Board as agent for the owner of the structure or dwelling and that the town is in no way obligated to pay the cost of the wrecking of the structure or dwelling.

(2) The owner of the structure or dwelling shall be served with a copy of the notice of bidding at least 7 days prior to the date fixed in the notice for the reception of bids. The entire cost of the wrecking shall be paid by the owner and the contractor shall be entitled to have a lien upon the real estate upon which structure or dwelling was located for the full amount of the cost of the wrecking.
(Prior Code, Ch. 14, Art. XI)

§ 150.56 SALVAGE MATERIALS.

(A) Within 72 hours after the Board's final decision to raze, the owner of a structure or dwelling shall have the prior right and may elect in writing to retain all salvaged materials by procuring the release of any liens created by the razing, or the owner may elect to have salvage materials sold and credited to the cost of the work. If no written filing of the owner's election is made, the Board can elect to sell the materials to help defray the costs.

(B) If the salvaged materials have no value or if they cannot be sold within a reasonable time, the materials will be removed from the premises and taken to a legally authorized facility.
(Prior Code, Ch. 14, Art. XII)

§ 150.99 PENALTY.

(A) Any person violating any provision of this chapter for which no penalty is prescribed shall be subject to §10.99.

(B)

(1) Whoever creates or maintains any nuisance (hazardous structure or unsafe dwelling) and who fails or refuses to abate the nuisance when so ordered, shall be subject to a fine of not more than $200.00 or imprisonment for not more than

30 days, or both. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues beyond the date fixed by the Town Council for abatement of the nuisance.

(2) Any person who shall prevent or attempt to prevent the posting of any notice or who shall remain in use of a hazardous building or unsafe dwelling, or shall refuse to comply with any orders, or willfully delays or interferes or damages anything or persons engaged in performing work under §150.45 et seq., shall be guilty of a misdemeanor and on conviction shall be fined any sum not to exceed $500.00 and each day that the violation continues shall be considered a separate offense.

(C) The Town may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this Ordinance. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code, plus the cost of filing and reasonable attorney fees. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this building ordinance.
(Prior Code, Ch. 14, Art. XIII) (Am. Ord. 2009-13, passed 6-1-2009)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

151.01 Statutory authorization
151.02 Statement of purpose
151.03 Definitions
151.04 Lands to which this ordinance applies
151.05 Basis for establishing regulatory flood data
151.06 Establishment of Floodplain Development Permit
151.07 Designation of Administrator
151.08 Permit Procedures
151.09 Duties & Responsibilities of the Floodplain Administrator
151.10 Provisions for flood hazard reduction-general standards
151.11 Provisions for flood hazard reduction-specific standards
151.12 Provisions for flood hazard reduction-standards for subdivision proposals
151.13 Provisions for flood hazard reduction-critical facility
151.14 Provisions for flood hazard reduction-standards for identified floodways
151.15 Provisions for flood hazard reduction-standards for identified fringe
151.16 Provisions for flood hazard reduction-standards for SFHAs without established base flood elevation and/or floodway fringes
151.17 Provisions for flood hazard reduction-standards for flood prone areas
151.18 Designation of Variance and Appeals board
151.19 Duties of Variance and Appeals Board
151.20 Variance Procedures
151.21 Conditions for Variances
151.22 Variance Notification
151.23 Historic Structure
151.24 Special Conditions
151.25 Compliance
151.26 Abrogation and greater restrictions
151.27 Discrepancy between mapped floodplain and actual ground elevations
151.28 Interpretation
151.29 Warning and Disclaimer of Liability

151.99 Penalty

§ 151.01 STATUTORY AUTHORIZATION AND FINDINGS OF FACT.

(A) The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Board of the Town of Spencer does hereby adopt the following floodplain management regulations.

(B) The flood hazard areas of the Town of Spencer are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(C) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses

vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.
(Prior Code, Ch 9, Art. VII, §2) (Ord. 1987-2, passed 2-2-1987, Am. Ord. 1992-4, passed 6-15-1992, Am. Ord. 2014-01, passed 2-3-2014)

§ 151.02 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(6) Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(B) The objectives of this ordinance are:

(1) To protect human life and health.

(2) To minimize expenditure of public money for costly flood control projects.

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) To minimize prolonged business interruptions.

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

(Prior Code, Ch. 9 , Art. VII, §2) (Ord. 1987-2, passed 2-2-1987, Am. Ord. 1992-4, passed 6-5-1992, Am. Ord. 2014-01, passed 2-3-2014)

§ 151.03 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

Accessory structure (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds

Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Boundary River means the part of the Owen River that forms the boundary between the Kentucky and Indiana.

Boundary River Floodway means the floodway of a boundary river.

Building - see "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development means any man-made change to improved or unimproved real estate including but not limited to:

(1) construction, reconstruction, or placement of a structure or any addition to a structure;

(2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(3) installing utilities, erection of walls and fences, construction of roads, or similar projects;

(4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

(5) mining, dredging, filling, grading, excavation, or drilling operations;

(6) construction and/or reconstruction of bridges or culverts;

(7) storage of materials; or

(8) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

Elevation Certificate is a certified statement that verifies a structure's elevation information.

Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

Flood Prone Area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

Floodway is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe is those portions of the floodplain lying outside the floodway.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structures means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest elevation described among the following:

(1) The top of the lowest level of the structure.

(2) The top of the basement floor.

(3) The top of the garage floor, if the garage is the lowest level of the structure.

(4) The top of the first floor of a structure elevated on pilings or pillars.

(5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;

b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

c) such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeds 25% of the market value of the structure before the damage occurred.

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Spencer are generally identified as such on the Owen County, Indiana and Incorporated Areas Flood Insurance Rate Map dated March 3, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone)

Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood

insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)
(Prior Code, Ch. 9, Art. VII, §3) (Ord. 1987-2, passed 2-2-1987, Am. Ord. 1992-4, passed 6-5-1992, Am. Ord. 2001-2, passed 11-5-2011, Am. Ord. 2014-01, passed 2-3-2014)

§ 151.04 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Spencer.
(Ord. 2014-1, passed 2-3-2014)

§ 151.05 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Spencer shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Owen County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated March 3, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Spencer, delineated as an "A Zone" on the Owen County, Indiana and Incorporated Areas Flood Insurance Rate Map dated March 3, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review, subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(Prior Code, Ch. 9, Art. VII, §5) (Ord. 1987-2, passed 2-2-1987, Am. Ord. 1992-4, passed 6-5-1992, Am. Ord. 2014-01, passed 2-3-2014)

§ 151.06 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.
(Prior Code, Ch. 9, Art. VII, §6) (Ord. 1987-2, passed 2-2-1987, Am. Ord. 1992-4, passed 6-5-1992, Am. Ord. 2001-2, passed 11-5-2001, Am. Ord. 2014-01, passed 2-3-2014)

§ 151.07 DESIGNATION OF ADMINISTRATOR

The Town Board of the Town of Spencer hereby appoints the Building Inspector to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.
(Prior Code, Ch. 9, Art. VII, §4) (Ord. 1987-2, passed 2-2-1987, Am. Ord. 1992-4, passed 6-5-1992, Am. Ord. 2014-01, passed 2-3-2014)

§ 151.08 PERMIT PROCEDURES

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) Application Stage.

(a) A description of the proposed development.

(b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

(c) A legal description of the property site.

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

(e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) for additional information.)

(2) Construction Stage.

Upon establishment/placement of the lowest floor, before framing continues, to include any approved floodproofing, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the floodproofing certification shall be at the applicant's risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. The Floodplain Administrator shall review the lowest floor or floodproofed elevation survey data submitted. The applicant shall correct any deficiencies detected by such review. Failure to submit the elevation certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(3) Finished Construction.

Upon completion of construction, a FEMA elevation certificate, Form 81-31, which depicts all finished construction, is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, a FEMA floodproofing certificate, Form 81-65, is required to be submitted by the applicant to the Floodplain Administrator.

(Ord. 2014-1, passed 2-3-2014)

§ 151.09 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B.

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.

(13) Stop Work Orders

a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.

b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(14) Revocation of Permits

a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition,

installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

(Prior Code, Ch. 9, Art. VII, §4) (Ord. 1987-2, passed 2-2-1987, Am. Ord. 1992-4, passed 6-5-1992, Am. Ord. 2014-01, passed 2-3-2014)

§ 151.10 PROVISIONS FOR FLOOD HAZARD REDUCTION-GENERAL STANDARDS

In all SFHAs and known flood prone areas the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.

(Ord. 2014-1, passed 2-3-2014)

§ 151.11 PROVISIONS FOR FLOOD HAZARD REDUCTION-SPECIFIC STANDARDS

In all SFHAs, the following provisions are required:

(1) In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

a) Construction or placement of any structure having a floor area greater than 400 square feet.

b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

f) Reconstruction or repairs made to a repetitive loss structure.

g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).

(3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take

into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (12).

b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method, which shall be retained in permit file.

b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.

c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

e) The top of the lowest floor including basements shall be at or above the FPG.

(6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:

(i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

(iii) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

c) Recreational vehicles placed on a site shall either:

(i) be on site for less than 180 days; or,

(ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(iii)meet the requirements for "manufactured homes" as stated earlier in this section.

(7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

a) Shall not be used for human habitation.

b) Shall be constructed of flood resistant materials.

c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

d) Shall be firmly anchored to prevent flotation.

e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Article 5, Section B. 4.

(8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(Ord. 2014-1, passed 2-3-2014)

§ 151.12 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR SUBDIVISION PROPOSALS

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

(5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(Ord. 2014-1, passed 2-3-2014)

§ 151.13 PROVISIONS FOR FLOOD HAZARD REDUCTION-CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(Ord. 2014-1, passed 2-3-2014)

§ 151.14 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR IDENTIFIED FLOODWAYS.

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway.

This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.
(Ord. 2014-1, passed 2-3-2014)

§ 151.15 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR IDENTIFIED FRINGE

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.
(Ord. 2014-1, passed 2-3-2014)

§ 151.16 PROVISIONS FOR FLOOD HAZARD REDUCTION- STANDARDS FOR SFHAs WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES.

(1) Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway permit (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway permit (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Article 5 of this ordinance have been met.

(2) Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

(Ord. 2014-1, passed 2-3-2014)

§ 151.17 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR FLOOD PRONE AREAS

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Article 5.

(Ord. 2014-1, passed 2-3-2014)

§ 151.18 DESIGNATION OF VARIANCE AND APPEALS BOARD

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

(Ord. 2014-1, passed 2-3-2014)

§ 151.19 DUTIES OF VARIANCE AND APPEALS BOARD

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Owen County Circuit Court.

(Ord. 2014-1, passed 2-3-2014)

§ 151.20 VARIANCE PROCEDURES

In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

(1) The danger of life and property due to flooding or erosion damage.

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(3) The importance of the services provided by the proposed facility to the community.

(4) The necessity to the facility of a waterfront location, where applicable.

(5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(6) The compatibility of the proposed use with existing and anticipated development,

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(Prior Code, Ch.9, Art. VII, §10) (Ord. 1987-2, passed 2-2-1987; Am. Ord. 1992-4, passed 6-15-1992; Am. Ord. 2014-1, passed 2-3-2014)

§ 151.21 CONDITIONS FOR VARIANCES

(1) Variances shall only be issued when there is:

a) A showing of good and sufficient cause.

b) A determination that failure to grant the variance would result in exceptional hardship.

c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance may be granted.

(3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to

be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, Section E).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section E).

(Ord. 2014-1, passed 2-3-2014)

§ 151.22 VARIANCE NOTIFICATION

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and;

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance.

(Ord. 2014-1, passed 2-3-2014)

§ 151.23 HISTORIC STRUCTURE

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(Ord. 2014-1, passed 2-3-2014)

§ 151.24 SPECIAL CONDITIONS

Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(Ord. 2014-1, passed 2-3-2014)

§ 151.25 COMPLIANCE

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

(Ord. 2014-1, passed 2-3-2014)

§ 151.26 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Prior Code, Ch.9, Art. VII, §12) (Ord. 1987-2, passed 2-2-1987; Am. Ord. 1992-4, passed 6-15-1992; Am. Ord. 2014-1, passed 2-3-2014)

§ 151.27 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(Ord. 2014-1, passed 2-3-2014)

§ 151.28 INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be:

(1) Considered as minimum requirements.

(2) Liberally construed in favor of the governing body.

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2014-1, passed 2-3-2014)

§ 151.29 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of Spencer, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.
(Prior Code, Ch.9, Art. VII, §11) (Ord. 1987-2, passed 2-2-1987; Am. Ord. 1992-4, passed 6-15-1992; Am. Ord. 2014-1, passed 2-3-2014)

§ 151.99 PENALTIES FOR VIOLATION

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Spencer. All violations shall be punishable by a fine not exceeding $1000.00.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(3) Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Prior Code, Ch.9, Art. VII, §12) (Ord. 1987-2, passed 2-2-1987; Am. Ord. 1992-4, passed 6-15-1992; Am. Ord. 2014-1, passed 2-3-2014)

CHAPTER 152: ZONING

Section

General Provisions

152.001 Purpose
152.002 Applicability
152.003 Definitions
152.004 Conflicts with other provisions
152.005 Enforcement

Establishment of Zoning Districts

152.020 Basic districts
152.021 Town zoning map
152.022 Zoning district boundaries

Permitted Uses and Structures in District

152.040 A-1 Agricultural District
152.041 BLM-1 Business and Light Manufacturing District
152.042 I-1 Industrial District
152.043 R-1 Residential District
152.044 R-2 Residential District

Mobile Homes

152.060 Mobile home parks definition
152.061 Location criteria
152.062 Approval for mobile home parks

Spencer Advisory Board of Zoning Appeals

152.080 Membership of BZA
152.081 Organization of the BZA
152.082 Meetings
152.083 Minutes and records
152.084 Quorum
152.085 Adoption of rules
152.086 Powers and duties
152.087 Variance of use
152.088 Variances from developmental standards
152.089 Grounds of appeal; records; decisions
152.090 BZA hearings on appeals, exceptions
152.091 Remedies for the aggrieved
152.092 Criteria for granting exceptions, variances
152.093 Special conditions

Non-Conforming Uses

152.110 Continuances of use
152.111 Non-conforming use cessation
152.112 Zoning district changes life services

Off-Street Parking and Loading

152.125 Scope
152.126 Parking area
152.127 Parking space
152.128 Location of parking
152.129 Parking lot requirements
152.130 Parking lot plans
152.131 Parking restrictions
152.132 Table of off-street parking requirements
152.133 Miscellaneous off-street parking provisions
152.134 Off-street loading requirements
152.135 Parking and maneuvering lane standards

152.999 Penalty

GENERAL PROVISIONS

§ 152.001 PURPOSE.

(A) This chapter regulates the use of land and the location of buildings and structures to promote the health, safety, and general welfare of all citizens of the town; it provides for the most appropriate use of land and the conservation and stabilization of property values; it implements the Spencer Zoning Comprehensive (Master) Plan; and it provides penalties for violations of its provisions.

(B) It also creates the Spencer Advisory Zoning Appeals Board, establishes how to file an appeal, provides to public hearings and defines how and when variances special uses, and exceptions may be granted.
(Prior Code, Ch. 9, Art. I) (Ord. 1987-2, passed 2-2-1987)

§ 152.002 APPLICABILITY.

(A) *Area of applicability.* Shall apply to all land use, buildings and structures for residential, commercial, industrial, and any other use in the town.

(B) *Interpretation of Zoning Ordinance.* Shall be read in terms that include any and all other ordinances of the town necessary to understand this chapter and attain its purposes. In addition, the provisions of this chapter shall be held to the minimum necessary for the promotion of public health, safety, and general welfare.

(C) *Conformance.* No building, structure, or land shall be used or occupied, or be erected, constructed, remodeled, or moved unless in conformance with the rules in this chapter for the Zoning District in which it is located or will be located.
(Prior Code, Ch. 9, Art. II) (Ord. 1987-2, passed 2-2-1987)

§ 152.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

ACCESSORY BUILDING. A building or structure on the same lot (or on a contiguous lot owned by the same person) as a principal building. This accessory building is clearly an extra building, normally found and used in conjunction with the main or principal building.

BUILDING. Any structure built for the shelter or enclosure of persons, animals, property, or substances of any kind, excluding fences.

BUILDING, DETACHED. Any building or structure separated from another building on the same lot by at least 10 feet.

BUSINESS. An occupation, employment, or enterprise that occupies time, attention, labor, and materials; or where merchandise is sold or exhibited, or where services are offered.

COMMISSION. The Spencer Plan Commission.

DWELLING: MULTI-UNIT. A building used by 2 or more households, living independently of each other in separate units; but does not include motels, hotels or resorts.

DWELLING: SINGLE-UNIT. A detached principal building, other than a mobile home, designed or used for a dwelling by only 1 household as an independent living unit.

DWELLING UNIT. Room, or rooms, connected together, kept or established for owner occupancy or for rent, and physically separate from other rooms in the same structure; with cooking; sanitary, living, and sleeping facilities.

FLOOD PLAIN. Any land area that adjoins the channel of a river, stream, lake, or other bodies of water that could be inundated by flood waters which can be reasonably expected in that area.

IMPROVEMENTS. Any work connected with servicing or furnishing facilities, such as grading, street building, curbs, gutters, driveway approaches, sidewalks, water lines, sewers, culverts, bridges, utilities, and other appropriate items.

MANUFACTURED HOME. As set forth in 42 U.S.C. §§ 5401 *et seq.* as it existed on January 1, 2007, a structure, transportable in 1 or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this section except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter; and except that the term shall not include any self-propelled recreational vehicle. The term manufactured home includes former descriptions of factory assembled housing commonly called mobile homes, modular homes, and sectional homes.

MASTER PLAN. A comprehensive plan for the development of the town and any amendments to the plan; prepared by the Spencer Plan Commission.

NON-CONFORMING USE. Any legally existing use, within a building, or on a tract of land that

does not conform to the use regulations of this chapter for the district it is located in, either on the effective date of the chapter or as a result of amendments made later.

OWNER. Any person or other legal entity having title or a proprietary interest in a property.

PLANNING AREA. The area of land within the corporate limits of the town.
(Prior Code, Ch. 9, Art. III) (Ord. 1987-2, passed 2-2-1987, Am Ord. 2013-9, passed 6-17-2013)

§ 152.004 CONFLICTS WITH OTHER PROVISIONS.

This chapter is not intended to change or alter any easement, covenant, restriction, or private agreement, except that if this chapter is more restrictive, this chapter shall prevail. If the provisions of an easement, covenant, restriction, or private agreement are more restrictive, the provisions shall remain in force.
(Prior Code, Ch. 9, Art. X) (Ord.1987-2, passed 2-2-1987)

§ 152.005 ENFORCEMENT.

(A) *Town Council President responsible.* It shall be the duty of the Town Council President to enforce this chapter, and any violations or non-compliance will be referred to the Town Attorney for legal action.

(B) *Permit issuance.* Any person who has the duty to issue permits shall obey the provisions of this chapter, and shall not issue permits for any building, use, or purpose in conflict with this chapter. Any permit inadvertently issued in conflict with this chapter shall be null and void.
(Prior Code, Ch. 9, Art. XI) (Ord.1987-2, passed 2-2-1987)

ESTABLISHMENT OF ZONING DISTRICTS

§ 152.020 BASIC DISTRICTS.

The planning area is divided into the following districts:

(A) A-1: Agricultural District;

(B) BLM-1: Business and Light Manufacturing District;

(C) I-1: Industrial District;

(D) R-1: Residential District; and

(E) R-2: Residential District.
(Prior Code, Ch. 9, Art. IV, § 1) (Ord. 1987-2, passed 2-2-1987)

§ 152.021 TOWN ZONING MAP.

(A) The Zoning Districts shown on the Town Zoning Map, and notations on the map, are a part of this subchapter.

(B) The Town Zoning Map shall have the signatures of the Town Council President and the Plan Commission President, certifying that this is the Town Map referred to in this subchapter.
(Prior Code, Ch. 9, Art. IV, § 2) (Ord. 1987-2, passed 2-2-1987)

§ 152.022 ZONING DISTRICT BOUNDARIES.

(A) Boundaries shown that approximately follow center lines of streets, highways, alleys, streams, rivers, railroad rights-of-way, platted lot lines; or parallel to or extensions of, these features shall be construed as following these lines.

(B) Where physical or cultural features exist on the ground are different than the Zoning Map, or in other circumstances not covered in division (A) above, the Plan Commission shall determine the boundaries.
(Prior Code, Ch. 9, Art. IV, § 3) (Ord. 1987-2, passed 2-2-1987)

PERMITTED USES AND STRUCTURES IN DISTRICT

§ 152.040 A-1 AGRICULTURAL DISTRICT.

Single and multi-family dwellings, mobile homes, compact homes, manufactured homes, and structures in support of agricultural operations and/or other agricultural pursuits, except for the raising or harboring of livestock, fowls, or other domestic animals within the corporate limits; that may be prohibited by other town ordinances.
(Prior Code, Ch. 9, Art. V, § 1) (Ord.1987-2, passed 2-2-1987)

§ 152.041 BLM-1 BUSINESS AND LIGHT MANUFACTURING DISTRICT.

(A) Business and Light Manufacturing District is to provide use of land for light manufacturing, assembly or processing plants, warehousing, wholesaling, and storage; all of which operations shall be conducted entirely within an enclosed building.

(B) Also provided in this district is the use of land for ***BUSINESS*** as defined in § 152.003, including but not limited to, retail stores, service stores, professional services, entertainment establishments, motels, hotels, single and multi-family dwellings, government operations, and similar businesses serving the public.

(C) None of the above shall be allowed to be objectionable uses due to potential noise, increased pedestrian and vehicular traffic, noxious odors, air pollutants, reduction in property values, or other conditions that might interfere with the general welfare of the surrounding area; and all uses shall be and remain compatible with, or in logical transition to, any surrounding or adjacent commercial or residential area.
(Prior Code, Ch. 9, Art. V, § 2) (Ord.1987-2, passed 2-2-1987)

§ 152.042 I-1 INDUSTRIAL DISTRICT.

Processing, manufacturing, bulk storage, transportation, and storage of goods and supporting

activities, compact homes, manufactured homes, single and multi-family dwellings.
(Prior Code, Ch. 9, Art. V, § 3) (Ord.1987-2, passed 2-2-1987)

§ 152.043 R-1 RESIDENTIAL DISTRICT.

Single and multi-family dwellings, apartments, churches, schools, parks, government, cultural, and similar public service activities.
(Prior Code, Ch. 9, Art. V, § 4) (Ord.1987-2, passed 2-2-1987, Am Ord. 2013-9, passed 6-17-2013)

§ 152.044 R-2 RESIDENTIAL DISTRICT.

Single and multi-family dwellings, apartments, compact homes, manufactured homes, manufactured home parks, churches, parks, government, cultural and similar public service activities.
(Prior Code, Ch. 9, Art. V, § 5) (Ord.1987-2, passed 2-2-1987; Am. Ord. 1988-5-6, passed 6-6-1988, Am Ord. 2013-9, passed 6-17-2013)

MOBILE HOMES

§ 152.060 MOBILE HOME PARKS DEFINITION.

(A) For the purpose of this subchapter, the following definition shall apply unless the context indicates or requires a different meaning.

(B) A ***MOBILE HOME PARK*** shall be defined as an area of land on which there is located more than 1 mobile home for the purpose of being occupied with or without cost to the owner or occupant.
(Prior Code, Ch. 9, Art. VI, § 1) (Ord.1987-2, passed 2-2-1987)

§ 152.061 LOCATION CRITERIA.

(A) There shall be no more than 1 mobile home on any lot. The placement of the mobile home must comply with all set back ordinances of the Town of Spencer.

(B) Each mobile home, including any expanded portions, shall be at least 20 feet from every other mobile home in the park.

(C) Each mobile home shall be enclosed around the bottom with at least 1 access opening large enough to permit inspection of water and sewer connections. The enclosure material shall be of a non-combustible material, except that wood may be used for the framework of the enclosure.

(D) Each mobile home lot shall abut directly on a road, driveway, or parking lot. There shall be no dead-end streets for vehicle traffic in a mobile home park.

(E) Hard surface area of sufficient size shall be provided for each mobile home as a base for steps to the mobile home, and each mobile home shall have a hard-surface walk to connect the steps with a street, road, driveway or parking lot.

(F) There shall be a house number clearly visible on each mobile home that conforms to the United States Postal Service requirements.

(G) A mobile home cannot be, or remain occupied, if all utility services are not available or are not connected.
(Prior Code, Ch. 9, Art. VI, § 2) (Ord.1987-2, passed 2-2-1987; Am. Ord. 1997-12, passed 10-20-1997)

§ 152.062 APPROVAL FOR MOBILE HOME PARKS.

Any person desiring to build a new mobile home park or change or alter a mobile home park, must submit a written request, together with a plan, that meets the criteria of this subchapter to the Plan Commission. Each plan shall include a detailed drawing of the location of the lot or lots by number and the exact locations of property lines, streets, and sidewalks of each proposed mobile home to be placed in the mobile home park.
(Prior Code, Ch. 9, Art. IV, § 3) (Ord. 1987-2, passed 2-2-1987)

SPENCER ADVISORY BOARD OF ZONING APPEALS

§ 152.080 MEMBERSHIP OF BZA.

(A) *Number of members.* The BZA shall consist of 5 members:

(1) Three citizen members are appointed by the President of the Town Council; 1 must be a member of the Plan Commission, 2 shall not be members of the Plan Commission;

(2) One citizen member is appointed by the Town Council, who shall not be a member of the Plan Commission; and

(3) One citizen member is appointed by the Plan Commission, who must be a Plan Commission member, and cannot be the same person as appointed by the Town Council President in division (A)(1) above.

(B) *Requirements.* No member of the BZA shall hold other elected or appointed office except as permitted in I.C. 36-7-4-902; in town, county or state government. All members of the BZA must reside in Spencer.

(C) *Length of term.* Each BZA member serves a 4 year term, and shall take an oath of office to be filed in the Clerk-Treasurer's office.

(D) *Conflict of interest.*

(1) Any member of the BZA who has a direct or indirect financial interest in a zoning matter cannot participate in a hearing or decision that is before the BZA.

(2) A member with a conflict of interest may be represented by an alternate on the BZA. The alternate shall be appointed by the party who appointed the member who has a conflict of interest.
(Prior Code, Ch. 9, Art. VIII, § 1) (Ord. 1987-2, passed 2-2-1987)

§ 152.081 ORGANIZATION OF THE BZA.

At the first meeting each year, the BZA shall elect a Chairperson and a Vice-Chairperson from its membership.

(Prior Code, Ch. 9, Art. VIII, § 2) (Ord. 1987-2, passed 2-2-1987)

§ 152.082 MEETINGS.

The BZA shall meet at the times as called by the chairperson, and at the Municipal Building.
(Prior Code, Ch. 9, Art. VIII, § 3) (Ord. 1987-2, passed 2-2-1987)

§ 152.083 MINUTES AND RECORDS.

The BZA shall keep minutes and records of all of its proceedings:

(A) All minutes and records are public records and shall be kept in the Municipal Building.

(B) The BZA shall, in all cases heard by it, make written findings of fact.

(C) Votes on any BZA action shall be recorded.
(Prior Code, Ch. 9, Art. VIII, § 4) (Ord. 1987-2, passed 2-2-1987)

§ 152.084 QUORUM.

A quorum shall consist of a majority of the entire membership of the BZA.
(Prior Code, Ch. 9, Art. VIII, § 5) (Ord. 1987-2, passed 2-2-1987)

§ 152.085 ADOPTION OF RULES.

The BZA shall adopt rules for the filing of appeals, the applications for variances and exceptions, the giving of notice and the conduct of hearings.
(Prior Code, Ch. 9, Art. VIII, § 6) (Ord. 1987-2, passed 2-2-1987)

§ 152.086 POWERS AND DUTIES.

The BZA shall hear and determine appeals from, and review:

(A) Any order, requirement, decision or determination made by any official except the Plan Commission in relation to enforcement of the Zoning Ordinance.

(B) The BZA shall approve or deny all:

(1) Special exceptions;

(2) Special uses;

(3) Contingent uses; and

(4) Conditional uses as specified in the Zoning Ordinance.

(C) The BZA may impose reasonable conditions as part of its approval.
(Prior Code, Ch. 9, Art. VIII, § 7) (Ord. 1987-2, passed 2-2-1987)

§ 152.087 VARIANCE OF USE.

(A) The BZA shall approve or deny variances of use from the terms of the Zoning Ordinance. The BZA may impose reasonable conditions as a part of its approval.

(B) A variance may be approved upon a determination in writing that:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

(3) The need for the variance arises from some condition peculiar to the property involved.

(4) The strict application of the Zoning Ordinance will constitute unnecessary hardship if applied to the property involved.

(5) The approval is substantially in accord with the Master Plan.
(Prior Code, Ch. 9, Art. VIII, § 8) (Ord. 1987-2, passed 2-2-1987)

§ 152.088 VARIANCES FROM DEVELOPMENTAL STANDARDS.

(A) The BZA shall approve or deny variances from the developmental standards of the Zoning Ordinance.

(B) Approval can be granted upon a written determination that:

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

(3) The strict application of terms in the Zoning Ordinance will result in practical difficulties in the use of the property.
(Prior Code, Ch. 9, Art. VIII, § 9) (Ord. 1987-2, passed 2-2-1987)

§ 152.089 GROUNDS OF APPEAL; RECORDS; DECISIONS.

(A) (1) An appeal filed with the BZA shall specify the grounds of the appeal and be filed by the rules prescribed by the BZA.

(2) Upon request of the BZA, all documents and/or data concerning an appeal are to given to the BZA (certified copies are acceptable).

(B) Upon appeal, the BZA may reverse, affirm or modify the order, requirement, decision, or determination made by other Boards or Commissions. For this purpose, the BZA has all of the powers of the official, Board, Commission, or body from which the appeal was taken.

(C) (1) The BZA shall make a decision either at the meeting where the matter is first presented or

at the conclusion of the hearing on the matter, if it is continued.

(2) Within 5 days after a decision is rendered, the BZA shall file a copy of the decision in the BZA files at the Municipal Building.
(Prior Code, Ch. 9, Art. VIII, § 10) (Ord. 1987-2, passed 2-2-1987)

§ 152.090 BZA HEARINGS ON APPEALS, EXCEPTIONS.

(A) The BZA shall fix a reasonable time for hearings:

(1) Public notice as required in I.C. 5-3-1-2 and I.C. 5-3-1-4, and due notice to interested parties shall be given at least 10 days before the date set for a hearing. The BZA shall, by rules, determine who are interested parties and how they are to be notified.

(2) The petitioner for an appeal may be required to pay for the cost of public notice and due notice to interested parties.

(3) At the hearing, each party may appear in person, by agent or by attorney.

(4) Any person may appear to present relevant evidence.

(B) A person shall not communicate with any member of the BZA before a hearing with the intent to influence the BZA member's action on a matter being heard.
(Prior Code, Ch. 9, Art. VIII, § 11) (Ord. 1987-2, passed 2-2-1987)

§ 152.091 REMEDIES FOR THE AGGRIEVED.

An aggrieved person must file in the Owen County Circuit Court within 30 days after the date of the BZA decision that he or she feels aggrieved by it.
(Prior Code, Ch. 9, Art. VIII, § 12) (Ord. 1987-2, passed 2-2-1987)

§ 152.092 CRITERIA FOR GRANTING EXCEPTIONS, VARIANCES.

(A) The BZA shall investigate each proposed use to determine if it is related to adjacent land use and with other uses permitted in the Zoning District.

(B) The BZA shall hold a public hearing on each request for an exception or variance in a Zoning District.

(C) The BZA may require that adequate landscaping or buffering is provided.

(D) The BZA may require that off-street parking is provided.

(E) The BZA may impose other conditions to insure that compatibility with surroundings are maintained.

(F) If a person was granted a special exception or variance and does not comply with any of the above, the BZA may terminate the exception or variance.
(Prior Code, Ch. 9, Art. VIII, § 13) (Ord. 1987-2, passed 2-2-1987)

§ 152.093 SPECIAL CONDITIONS.

(A) (1) Junk and wrecked auto yards with proper state approval and licensing may be granted in I-1
Districts only.

(2) The yards must be entirely enclosed by a fence or wall, except for driveways, so that no junk or wreckage can be seen from adjacent areas.

(B) Home businesses shall be limited to activities such as operation of an office, a personal service business, or the creation and/or sale of arts and crafts. The operation of a home business shall normally be confined to the residents of the dwelling unit.

(1) Except for the creation/production of arts and crafts, there shall be no goods, samples, materials, or other objects sold, stored, displayed manufactured, or proceeded on the premises in connection with the operation.

(2) Home business activity shall be confined to the dwelling unit or garage, and shall not be more than 10% of the total ground floor area.

(3) Off-street parking may be required by the BZA for customers of a home business.

(C) Kennels or other uses that entail boarding, training, or raising dogs, cats, birds, or other animals shall not be permitted in Residential Zoning Districts unless by special exception granted by the BZA.

(D) (1) Repair shops for cars, trucks, tractors, lawnmowers, chainsaws, or other pieces of engine-driven equipment shall not be permitted in Residential Zoning Districts unless by special exception granted by the BZA.

(2) Repair shops in any district shall provide off-street parking for vehicles or other items being held for repair.

(E) Other uses may be granted by the BZA when it determines that the use will be compatible and that other conditions essential to maintain the character of the zone are met.
(Prior Code, Ch. 9, Art. VIII, § 14) (Ord. 1987-2, passed 2-2-1987)

NON-CONFORMING USES

§ 152.110 CONTINUANCES OF USE.

(A) A non-conforming use in existence at the time of the enactment of this subchapter may be continued unless it is restricted in this subchapter.

(B) Repairs and alterations that are normal to any building, or maintenance, may be performed on non-conforming structures, if necessary for public health, safety, or appearance.

(C) A non-conforming use may be changed to a conforming use, but shall not be changed to another non-conforming use.
(Prior Code, Ch. 9, Art. IX, § 1) (Ord. 1987-2, passed 2-2-1987)

§ 152.111 NON-CONFORMING USE CESSATION.

(A) If for a continuous period of 6 months, a non-conforming use has ceased, or is removed and has not been replaced, the building or land shall be used only for a conforming use thereafter.

(B) Mobile homes located in R-2 Residential Districts are non-conforming usage. Upon removal of a mobile home from any lot, mobile home park, or other location in R-2, it shall not be replaced without the written approval of the BZA.
(Prior Code, Ch. 9, Art. IX, § 2) (Ord. 1987-2, passed 2-2-1987)

§ 152.112 ZONING DISTRICT CHANGES LIFE SERVICES.

If the boundaries of a Zoning District are changed and it transfers an area from one district to another district with a different zoning classification, the provisions of §§ 152.110 and 152.111 shall apply to non-conforming uses then existing in the new district.
(Prior Code, Ch. 9, Art. IX, § 3) (Ord. 1987-2, passed 2-2-1987)

OFF-STREET PARKING AND LOADING

§ 152.125 SCOPE.

In all Zoning Districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered so as to require a building permit or extended after the effective date of this subchapter, shall be provided as herein prescribed. The space shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of the spaces are provided elsewhere in conformance with this subchapter. Any deviation from this subchapter may be granted by the Board of Zoning Appeals after the filing of a petition and notice and hearing. The Board of Zoning Appeals must enter specific findings prior to granting such a request finding the following herein.
(Prior Code, Ch. 24, § 24.1) (Ord. 1996-11, passed 11-4-1996)

§ 152.126 PARKING AREA.

For the purpose of this subchapter, the average parking area consisting of a parking space and adjacent maneuvering aisle space, shall be deemed to be 300 square feet.
(Prior Code, Ch. 24, § 24.2) (Ord. 1996-11, passed 11-4-1996)

§ 152.127 PARKING SPACE.

Each parking space shall contain a minimum of 180 square feet, and shall have a direct means of ingress and egress from a public right-of-way.
(Prior Code, Ch. 24, § 24.3) (Ord. 1996-11, passed 11-4-1996)

§ 152.128 LOCATION OF PARKING.

The off-street parking required by this subchapter shall be provided in accordance with the following requirements:

(A) *One and 2 family dwellings.* The off-street parking facilities required for 1 and 2 family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve. Parking is limited to the driveway only and 1 additional parking lane may be allowed with approval. Parking spaces may not be located in the front yard.

(B) *Multiple family dwellings.* The off-street parking facilities for multi-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as defined elsewhere in this subchapter. In no event shall any uncovered parking space in a multi-family district be located nearer then 10 feet to any main building. Parking spaces may not be located in the front yard except as provided in § 152.130 (C)(2) herein under.

(C) *Mobile home parks.* Off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site. Each parking space must meet the minimum requirements. In no event shall any uncovered parking space in a mobile home park be located nearer than 10 feet to any main building.

(D) *Other land uses.* The off-street parking, other than that addressed under divisions (A) through (C) above required, may be located on each site or in parking lots conveniently located and readily accessible to each site. Each parking space must meet the minimum area requirements and meet any other engineering standards as deemed necessary by the Planning Commission.
(Prior Code, Ch. 24, § 24.4) (Ord. 1996-11, passed 11-4-1996)

§ 152.129 PARKING LOT REQUIREMENTS.

All parking facilities, including driveways and maneuvering areas, required for uses mentioned in § 152.132 of this subchapter (except for single family dwellings with a driveway with a slope of 2% or less) shall be hard-surfaced with a pavement having an asphalt or concrete binder, shall be 2% or less) shall be hard-surfaced with a pavement having an asphalt or concrete binder, shall be graded and drained so as to dispose of surface water which might accumulate within or upon the area, and shall be completely constructed prior to a certificate of occupancy being issued. No additional surface water from the parking area shall be permitted to drain onto adjoining property unless a watershed easement has been obtained. The BZA may grant an extension for the placing of the hard surface for up to 1 year due to weather and settling. However, the petitioner must post an adequate bond or other assurances for this extension to be granted.
(Prior Code, Ch. 24, § 24.5) (Ord. 1996-11, passed 11-4-1996)

§ 152.130 PARKING LOT PLANS.

(A) The construction of any parking lot shall be in accordance with the requirements of this subchapter and the construction shall be completed and approved by the Building Commissioner before actual use of the property as a parking lot and before a certificate of occupancy is issued.

(B) Plans for the development of any parking lot must be submitted to the Building Commissioner, prepared at a scale of not less than 1 inch equals 50 feet and indicating existing and proposed grades, drainage, pipe sizes, parking of all dimensions, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used and the layout of the proposed parking lot. All parking lots exceeding 10% coverage of any lot shall require a building permit.

(C) The plans are to be prepared in a presentable form by person or persons competent in the work and shall reflect conformance with the following provisions:

(1) All illumination for or on all the parking lots shall be deflected away from adjacent residential areas and roadways and shall be installed in such a manner as to allow the reduction of the amount of light on other than normal parking hours each day. The source of illumination in all parking lots abutting a residential area shall not be more than 20 feet above the parking lot surface.

(2) The required front yard setback area in a multi-family residential area shall be maintained as a green area. In cases of difficult topography, the Building Commissioner may allow the parking lots to extend into the front setback area provided that the average of front setback areas totals at least 30 feet from any public street right-of-way in no case shall the parking lot be any closer than 10 feet to a public street right-of-way.

(3) When a parking lot or area for a non-residential use is situated in a parcel that adjoins a residential district or use, the respective side and rear yard setback in which the parking is located shall be a minimum of 45 feet of which 20 feet nearest the respective property line is developed as a greenbelt; extending from the front yard setback to the rear yard setback in the case of the side yard parking adjoining residential use, or the width of the rear of the lot in the case of rear yard parking adjoining the residential use.

(4) Adequate ingress and egress to the parking lot, by means of limited and clearly defined drive or drives, shall be provided for all vehicles.

(5) Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines.

(6) Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations: The minimum parking space dimensions for a layout not provided for in tile following regulations shall be 9 feet in width, 20 feet in length and 180 square feet in area.
(Prior Code, Ch. 24, § 24.6) (Ord. 1996-11, passed 11-4-1996)

§ 152.131 PARKING RESTRICTIONS.

Off-street and on-street parking of vehicles shall be further restricted by the following requirements: After the effective date of this subchapter, it shall be unlawful for the owner, tenant or lessee of any lot, parcel or tract of land in a Residential District or in the residential area of any other district, to permit or allow the open storage or parking, either day or night, thereon of trucks, semi trucks and trailers, mobile homes, tractors, bulldozers, earth carriers, drag lines, cranes, steam shovels and/or any other equipment or machinery. It is provided, however, that the owner, tenant or lessee of a farm may openly store the machinery and equipment used on his or her farm; and it is further provided that equipment necessary to be parked overnight on a lot, parcel or tract of land during construction work thereon shall be exempted from this restriction. Violations shall be subject to penalties of fines, imprisonment or both. This shall not apply to pickup or panel trucks.
(Prior Code, Ch. 24, § 24.7) (Ord. 1996-11, passed 11-4-1996)

§ 152.132 TABLE OF OFF-STREET PARKING REQUIREMENTS.

The amount of required off-street parking spaces by type of use shall be determined in accordance with the following tables and with the exception of Residential, must comply with the American Disabilities Act (ADA) guidelines:

Use	***Minimum Required Number of Parking Spaces Per Each Unit of Measure As Follows***
Residential	
One and 2 family	2 per each dwelling unit
Multiple family and attached single family	2 per each dwelling unit
Mobile home parks	2 per each mobile home unit
Boarding house	1 per each sleeping room

Use	***Minimum Required Number of Parking Spaces Per Each Unit of Measure As Follows***
Institutional	
Hospitals	1 per each 2 beds plus per staff doctor, plus per 2 employees
Libraries and museums	1 per each 400 square feet of UFA
Private clubs and lodges	1 per each 3 individual members allowed within the maximum occupancy load as established by local, county, state, fire, health or building codes
Church	1 per 4 members/seats
Private tennis club, swim club, golf club, or other similar use	1 per each 2 member families or individuals, plus amount required for accessory uses
Single screen/stage theaters, auditoriums and assembly halls	2 per each 5 seats based on the maximum seating capacity in the main place of assembly therein, plus per each 2 employees
Multi-screen/stage theaters	3 per each 10 seats based on the maximum seating capacity in the main place of assembly therein
Sanitariums, convalescent homes	1 per each 4 beds
Homes for the aged, nursing homes	1 per each staff doctor
Children’s homes	1 per each 2 employees
Stadiums and sports arenas	1 per each 4 seats or 8 feet of bench

Use	***Minimum Required Number of Parking Spaces Per Each Unit of Measure As Follows***
Business and Commercial	

Use	***Minimum Required Number of Parking Spaces Per Each Unit of Measure As Follows***
Animal hospitals and kennels	1 per each 400 square feet UFA, plus 1 per each 2 employees
Auto salesrooms, wholesale stores, machinery sales and other similar uses	1 per each 300 square feet UFA plus 1 per each employee
Auto garages, auto repair shops, collision or bump shops, or other similar uses	1 per each 800 square feet plus 1 per each 2 employees computed on the basis of the maximum number of employees on duty at any 1 time, plus 2 per each stall or service area
Vehicle service stations, filling stations	2 per each service stall, plus 1 per each employee, plus 1 per each service area
Vehicle wash establishments	1 per each employee, plus sufficient parking to enable 1 vehicle per workstation
Barber shops	2 per each barber
Beauty shops	3 per each beauty operator
Bowling alleys	6 per bowling lane plus amount required for accessory uses
Dance halls, exhibition halls, pool halls, billiard parlors, and assembly halls without fixed seats	1 per each 2 persons allowed within the maximum occupancy load as established by local county or state fire, health or building codes
(OR)	1 per each 100 square feet UFA, whichever is greater
Daycare centers	1 per 2 employees, plus 1 per 5 children
Drive-in restaurants or similar drive-in uses for the sale of food, beverages or refreshments	1 per each 50 square feet GFA, plus 1 per each 3 employees
Drive-in theater	1 per each outdoor speaker facility, plus 1 per each 3 employees
Furniture, appliances and household equipment, repair shops, hardware stores and other similar uses	1 per each 800 square feet of UA, plus 1 per each 2 employees
Laundromat, coin operated dry cleaning establishment	1 per each 2 washing and dry cleaning machines
Miniature or “Par 3" golf course	2 per each hole, plus 1 per each 2 employees
Mortuary establishments, funeral homes, undertaking parlors	1 per each 50 square feet of parlor area

Use	***Minimum Required Number of Parking Spaces Per Each Unit of Measure As Follows***
Motels, hotels, tourist homes	1 per each guest bedroom, plus 1 per each employee, plus amount required for accessory uses
Open air business (not otherwise provided for herein)	1 per each 800 square feet of lot area used for the business
Personal service establishment (not otherwise provided for herein)	1 per each 300 square feet of UFA, plus 1 per each 2 employees
Restaurants and other establishments (other than drive-in restaurants) in which is conducted the sale and consumption on the premises of food, beverages or refreshments	1 per each 3 persons allowed within the maximum occupancy load as established by local, state or county fire health or building codes, plus 1 per each 3 employees
(OR)	1 per each 700 square feet UFA, plus 1 per each 3 employees, whichever is greater
Retail stores, except as otherwise specified herein	1 per each 200 square feet of GFA, plus 1 per each 3 employees
Roadside stands	5 for each establishment

Use	***Minimum Required Number of Parking Spaces Per Each Unit of Measure As Follows***
Offices	
Banks (other than drive-in banks), post offices	1 per each 200 square feet UFA, plus 1 per each employee
Business and professional offices	1 per each 300 square feet GFA
Drive-in bank	4 standing spaces per each outside teller window, plus normal requirements for banks
Medical clinic and dental clinic	4 per each staff or visiting doctor, plus 1 per each employee

Use	***Minimum Required Number of Parking Spaces Per Each Unit Of Measure As Follows***
Industrial	
Industrial or manufacturing establishments, research establishments	1 per each 1-1/2 employees computed on the basis of the greatest number of persons employed at any 1 time, day or night
(OR)	2 per each 2,000 square feet GFA, whichever is greater

Use	*Minimum Required Number of Parking Spaces Per Each Unit Of Measure As Follows*
Warehouses and storage buildings	1 per each 2 employees computed on the basis of the greatest number of persons employed at any 1 time, day or night
(OR)	1 per each 2,000 square feet GFA, whichever is greater

(Prior Code, Ch. 24, § 24.8) (Ord. 1996-11, passed 11-4-1996)

§ 152.133 MISCELLANEOUS OFF-STREET PARKING PROVISIONS.

(A) (1) *Existing off-street parking at effective date of subchapter.* Off-street parking existing at the effective date of this subchapter which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this subchapter. This section excludes metered parking areas.

(2) *Fractional requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including 1/2 may be disregarded and fractions over 1/2 shall required 1 parking space.

(3) *Other requirements.* Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed.

(4) *Additional parking.* Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.

(B) For the purposes of determining off-street parking and loading requirements, the following provisions shall apply:

(1) In mercantile establishments, usable floor area (UFA) shall mean the floor area used for service to the public. It shall not include floor area used for storage or the processing and packaging of merchandise where it is carried on in a room in which service to the public is not involved.

(2) In hospitals, bassinets shall not be counted as beds.

(3) Where benches, pews or other similar seating facilities are used as seats, every 24 inches of the seating facilities shall be counted as 1 seat.

(4) In the case of mixed uses in the same building, the total requirements for off-street parking and loading shall be the sum of the requirements for the different individual uses computed separately. In the event that the uses are non-concurrent, the requirement shall be the greater of the individual, non-concurrent use requirements.

(5) Joint or collective provision of off-street parking for buildings or uses of 2 or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately.
(Prior Code, Ch. 24, § 24.9) (Ord. 1996-11, passed 11-4-1996)

§ 152.134 OFF-STREET LOADING REQUIREMENTS.

(A) On the same premises with every building or part thereof erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, hospital,

laundry, dry cleaning, or other similar use involving the receipt or distribution of vehicles, material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading or unloading services in order to avoid undue interference with street or parking areas.

(B) The loading and unloading space or spaces, unless completely and adequately provided for within a building, shall be a minimum area of 10 feet by 25 feet with 14 foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area In Square Feet	***Loading And Unloading Spaces Required In Terms of Square Feet of Gross Floor Area***
0-2,000	None
2,000-20,000	1 space
20,000-100,000	1 space plus 1 space for each 20,000 square feet in excess of 20,000
100,000-500,000	5 spaces plus 1 space for each 40,000 square feet in excess of 100,000 square feet
Over 500,000	15 spaces plus 1 space for each 80,000 square feet in excess of 500,000 square feet

(Prior Code, Ch. 24, § 24.10) (Ord. 1996-11, passed 11-4-1996)

§ 152.135 PARKING AND MANEUVERING LANE STANDARDS.

Parking and maneuvering areas must be designed in accordance with the following schedule:

Parking Pattern (in degrees)	***Maneuvering Lane Width***		***Parking (1) Space Width***	***Parking (2) Space Width***	***Total Width of 2 Tiers of Spaces Plus Maneuvering Lane***	
	1-way	***2-way***			***1-way***	***2-way***
0	11 feet	18 feet	9 feet	25 feet	28 feet	35 feet
30-50	12 feet	20 feet	9 feet	21 feet	54 feet	62 feet
54-74	13 feet	24 feet	9 feet	21 feet	55 feet	66 feet
75-90	15 feet	24 feet	9 feet	18 feet	51 feet	60 feet
(1) Measured perpendicular to the longitudinal space centerline						
(2) Measured along the longitudinal space centerline						

(Prior Code, Ch. 24, § 24.11) (Ord. 1996-11, passed 11-4-1996)

§ 152.999 PENALTY.

(A) *Violations are a common nuisance.* The erection, construction, enlargement, conversion, or moving of any building or structure; and the use of any land, premises, or building which is continued, operated, or maintained contrary to this chapter is a common nuisance and a violation of this chapter. The Town Attorney shall request injunction, abatement, or any appropriate action at his or her disposal to prevent, enjoin, abate, or remove violations.

(B) *Civil action against violators.* Civil suit against any violator of this chapter may be instituted by any property owner who may be especially damaged by violations of this chapter. The remedies provided for may be cumulative and in addition to any other remedies prescribed by law.
(Ch. 9, Art. XII) (Ord. 1987-2, passed 2-2-1987)

(C) *Failure to comply.* In addition to any other remedy or penalty provided elsewhere in this chapter, any person or entity who violates or refuses compliance, or resists enforcement of this chapter may be fined up to $1,000 by a court of competent jurisdiction.

(D) *Violations.* Any person or entity who violates this chapter who is not slated to appear in court may be subject to a fine of $500. Alleged violators may pay to the Clerk-Treasurer the sum required within 7 days of the violation. If this fine is not paid within 7 days, suit shall be instituted for and on behalf of the town by the Town Attorney to collect the costs, including reasonable attorney fees incurred by the town for collection of the account.
(Prior Code, Ch. 9, Art. XIII) (Ord. 1987-2, passed 2-2-1987; Am. Ord. 1992-4, passed 6-15-1992)

CHAPTER 153: SUBDIVISION

Section

General Provisions

153.001 General requirements
153.002 Definitions
153.003 General provisions

Application For Subdivision Approval

153.020 Pre-application for subdivision approval
153.021 Director of Planning Services preliminary review
153.022 Formal application
153.023 Filing fee
153.024 Director of Planning Services formal review

Preliminary Plat and Primary Approval

153.040 Preliminary plat approval
153.041 Notification of decision
153.042 Effective term of primary approval
153.043 Preliminary plat required format
153.044 Preliminary plat required information

Final Plat and Secondary Approval

153.060 Secondary approval
153.061 Recording of approved plat
153.062 Failure to record plat
153.063 Phasing of construction
153.064 Secondary approval prior to completion of improvements
153.065 Determination of compliance with primary approval
153.066 Evidence of compliance with primary approval
153.067 Final plat required format
153.068 Final plat required information

Development Plan

153.085 Applicability
153.086 Development standards
153.087 Subdivision and development plans required
153.088 Certification of design
153.089 Development and subdivision plan approval
153.090 Exempt subdivisions of land
153.091 Development plan standards
153.092 Compliance with Comprehensive Plan, subdivision and zoning ordinances
153.093 Conditions of the land
153.094 Public sites
153.095 Estimate of cost of construction
153.096 Waiver and modification of Development Plan

153.097 Appeals to the Plan Commission
153.098 Survey monuments
153.099 Blocks
153.100 Lots and streets
153.101 Alleys
153.102 Utility easements

Streets and Rights-Of-Way

153.120 Applicability
153.121 General design considerations
153.122 Street design standards
153.123 Sight distance
153.124 Extension of streets
153.125 Intersections
153.126 Grading
153.127 Transverse slopes
153.128 Minimum radii of curvature on the centerline
153.129 Minimum right-of-way widths
153.130 Half rights-of-way for streets and alleys
153.131 Pavement widths
153.132 Pavement materials and minimum depths
153.133 Curbs and gutters
153.134 Shoulders
153.135 Sidewalks
153.136 Signs

Wastewater Service

153.150 Wastewater treatment; sanitary sewer standards
153.151 Acceptance of improvements
153.152 Wastewater treatment options

Water Service

153.170 Water supply system standards
153.171 Acceptance of improvements
153.172 Fire hydrants

Electric and Communications Services

153.190 Electric service
153.191 Communications services

Administration and Enforcement

153.205 Duties of the Director of Planning Services
153.206 Reference to other statutes and regulations
153.207 Conflict with other statutes

153.999 Penalty

GENERAL PROVISIONS

§ 153.001 GENERAL REQUIREMENTS.

(A) The standards set forth in these regulations control the development of land within the jurisdiction of the town.

(1) The purpose of these regulations is to insure provision of adequate light, air, open spaces, drainage, streets and public utilities.

(2) The aim is to develop and maintain a healthy, attractive and efficiently built environment that enhances the quality of life and sustains the natural environment.

(B) (1) The Town of Spencer Comprehensive Plan adopted by the town has a vision of quality development efficiently planned with amenities to increase investment value.

(2) The subdivision regulations must implement the quality development policies found in the Comprehensive Plan.

(C) (1) New residential growth must develop within the context of the existing neighborhoods.

(2) This will add value both within the neighborhoods and to the town's regional area as well.

(D) (1) Zoning regulation must serve the general welfare of the entire community.

(2) Careful attention to process, public notice and record keeping is required.

(E) Technical as well as administrative early review of each case must be thorough and professional, with written minutes or reports submitted from each meeting.

(1) The idea is to take time on the front end of the process so that subdivision requirements are clear and the case is well prepared for each hearing.

(2) Adding certainty and efficiency, while gaining quality assurance, is the aim of this chapter.

(F) (1) Following state guidelines, the primary plat will be conducted as a public hearing.

(2) The secondary plat will be approved, subject to the petitioner strictly following the subdivision regulations and financially securing the cost of the infrastructure.

(G) Most smaller divisions of land will be approved at the same meeting for both primary and secondary plats.

(H) (1) As a subdivision is being built, a strict compliance with submitted plans and commitments will be mandated.

(2) A follow up by the Director of Planning Services will be required and a written report will be submitted to the Plan Commission every 6 months during the build out.
(Ord. passed - -, § 153.001)

§ 153.002 DEFINITIONS.

Except as otherwise defined in this chapter, the definitions and requirements set forth in the zoning ordinance shall apply throughout this chapter.
(Ord. passed - -, § 153.002)

§ 153.003 GENERAL PROVISIONS.

(A) All parties who have a financial interest in the subdivision and subsequent development must be on record as agreeing with the submission provisions in the application to the Plan Commission.

(B) When it is clearly in the town's interest that a parcel should not be developed through further subdivision, the Planning Commission may reject a primary plat. Reasons for property not to be further developed include:

(1) Property subject to flooding;

(2) Property underlined by significant caverns and karsts features;

(3) Property that has marketable dimension limestone;

(4) Property with archeological significance;

(5) Property with endangered species habitat; and/or

(6) Property that has accumulated environmental waste.

(C) Subdivisions must comply with the Town of Spencer Comprehensive Plan.

(D) Subdivision streets must generally comply with the provisions of the Comprehensive Plan.

(E) Subdivision block length maximum is 800 feet.

(1) Maximum cul-de-sac length is 600 feet.

(2) Size of all cul-de-sacs will be a 40 foot radius.

(F) Subdivisions must provide utility and drainage easements on the perimeter of the property at not less than 20 feet wide.

(G) Provisions for lot width and depth are to be no more than a 4:1 ratio.

(H) (1) Provision of green space, trails, pathways, park features and playgrounds are required to meet the basic needs of each subdivision.

(2) Encouragement to add extra amenities and features that facilitate the walkablity for residents may be established by the Planning Commission, and may be used to determine a density bonus of units within the subdivision.

(I) Clustering or grouping of structures to both save on infrastructure investment and design with nature around a sensitive natural feature may be given a waiver from the strict application of the zoning code, as long as the new subdivision plat:

(1) Conforms generally to the Comprehensive Plan; and

(2) Furthers economic investment quality, health, safety and welfare of the overall community.

(J) A buffering plan to lessen the impact of different land uses may be required.

(1) The buffer may include fences, earthen berms, evergreens and/or shade trees.

(2) The design will be determined on a case-by-case basis, depending on the specific site situation.

(K) Healthy trees over a 30 inch diameter may be required to be saved and marked for conservation on the submitted site plan.

(1) Native shade trees are mandated to be planted at an average of every 50 feet in the front yard of each lot.

(2) Where possible and with the Spencer Town Council written consent, additional trees may line the streets in plots between the sidewalk and the curb.

(L) Each surveyor must follow standard professional practice and leave permanent monuments at appropriate locations.

(M) Only large lot subdivisions, each averaging 3 acres per lot with no lot less than 2 acres, may apply for a waiver of street width.

(N) Waivers from strict application of the zoning code may be requested at the time of site plan review and prior to the approval of the primary plat.

(1) The waiver may be requested for hardship related to a unique physical characteristic of the land to be developed.

(2) If an innovative or creative site plan design is submitted, a waiver may be requested, provided there is substantive research or expert opinion to support the proposed innovation.
(Ord. passed - -, § 153.003)

APPLICATION FOR SUBDIVISION APPROVAL

§ 153.020 PRE-APPLICATION FOR SUBDIVISION APPROVAL.

(A) Prior to the filing of a formal application for approval of a preliminary plat, the petitioner shall submit to the Director of Planning Services the plans and data that outline generally the scope and intent of the proposed subdivision project.

(B) The pre-application plans and data shall include the following (a freehand sketch is acceptable):

(1) Present use and configuration of the land, including existing land uses, improvements, easements, rights-of-way, available utilities, contamination or other hazards of the land, covenants, restrictions, topography and drainage patterns.

(2) Proposed use and configuration of the land, including lot sizes, dedications of public land, dedication of rights-of-way and easements, street and utility layouts, regrading plans and drainage improvements.

(3) Proposed development name.
(Ord. passed - -, § 153.010)

§ 153.021 DIRECTOR OF PLANNING SERVICES PRELIMINARY REVIEW.

(A) The pre-application process is intended to be a reasonably informal review of the proposal.

(B) The Director of Planning Services and petitioner will jointly review the proposal for compliance with the requirements of the Comprehensive Plan, zoning and subdivision regulations.

(C) The petitioner shall deliver the plan to the respective utility organizations and the town's utility for their review and comment.

(D) The Director of Planning Services will make recommendations to the petitioner concerning changes to the plan and the filing of a formal application for preliminary plat review by the Plan Commission.
(Ord. passed - -, § 153.011)

§ 153.022 FORMAL APPLICATION.

(A) A written application for preliminary plat approval shall be filed by the petitioner with the Director of Planning Services.

(B) The application shall be complete and shall include a copy of the proposed subdivision plan and preliminary plat.

(C) The petitioner is responsible for completing, mailing and filing notifications and legal advertisements in accordance with § 153.044.
(Ord. passed - -, § 153.012)

§ 153.023 FILING FEE.

(A) The filing fee associated with the submission of a subdivision plan and plat shall be in the sum of $100.00 plus $25.00 per lot and shall be paid by the petitioner.

(B) The filing fee shall be paid prior to scheduling a date for the public hearing.
(Ord. passed - -, § 153.013)(Am.Ord.2010-1, passed April 5, 2010)

§ 153.024 DIRECTOR OF PLANNING SERVICES FORMAL REVIEW.

(A) After receiving the formal application, the Director of Planning Services shall, within 30 days, review the proposal and make a determination concerning its conformance with the standards under this chapter.

(B) The result of the review shall be one of the following.

(1) If the Director of Planning Services determination is that the proposal does not conform to these regulations, then the application shall be returned to the petitioner for modification.

(a) However, with the concurrence of the Director of Planning Services, the petitioner may proceed with the application together with a request for any waiver by the Plan Commission; and

(b) The Director shall set a date for a public hearing within 30 days of the decision.

(2) If the Director of Planning Services determines that the proposal is in conformance with these regulations, then the Director shall set a date for a public hearing within 30 days of making the determination.
(Ord. passed - -, § 153.014)

PRELIMINARY PLAT AND PRIMARY APPROVAL

§ 153.040 PRELIMINARY PLAT APPROVAL.

(A) The Director of Planning Services shall consider the preliminary plat at a public hearing pursuant to I.C. 36-7-4-706.

(B) At the hearing, the Plan Commission may:

(1) Grant primary approval of the plat as presented;

(2) Grant primary approval of the plat contingent on changes or revisions deemed necessary and in the interests and needs of the community;

(3) Disapprove the plat;

(4) Continue the hearing to another specified date and time; or

(5) Table the request.

(C) The Plan Commission's primary approval shall constitute authorization to proceed with construction of the required improvements, and shall precede secondary approval of the plat.

(1) Primary approval shall not qualify a plat for recording with the County Recorder.

(2) Lots may not convey title until the final secondary plat is approved and signed
(Ord. passed - -, § 153.020)

§ 153.041 NOTIFICATION OF DECISION.

(A) The Director of Planning Services shall notify the petitioner of the Plan Commission's decision within 30 days.

(B) If the preliminary plat was disapproved, the notification shall include a copy of the plat with appropriate notations setting forth the reason(s) for disapproval, and specifying with particularity the aspects in which the proposed plat fails to conform to the requirements of this chapter.
(Ord. passed - -, § 153.021)

§ 153.042 EFFECTIVE TERM OF PRIMARY APPROVAL.

(A) Primary approval shall be effective for a maximum period of 18 months, except that, upon application by the petitioner, the Plan Commission may grant an additional 12 month extension.

(B) Once extensions have been exhausted the process must start over.
(Ord. passed - -, § 153.022)

§ 153.043 PRELIMINARY PLAT REQUIRED FORMAT.

(A) Two copies of the plat, Development Plan and supplementary data sheets shall be delivered to the Zoning Administrator for referral to the Plan Commission.

(B) (1) Paper copies of the plat and Development Plan are acceptable for primary approval.

(2) As a guide, the final plat should be submitted on 20 inch wide by 18 inch high Mylar (or equivalent).

(C) (1) The preferred scale is 100 feet to 1 inch.

(2) Other scales will be considered where the preferred scale compromises legibility.
(Ord. passed - -, § 153.023)

§ 153.044 PRELIMINARY PLAT REQUIRED INFORMATION.

The preliminary plat shall contain the following information.

(A) Name of the subdivision at the top of the plat.

(B) Scale of plat and north point.

(C) Boundary drawing as follows, based on accurate traverse:

(1) Showing angular and lineal dimensions, radii, internal angles, central angles, points of curvature and tangency, lengths of tangents and lengths of arcs;

(2) Showing true courses and distances to the nearest official monuments that shall accurately describe the location of the plat;

(3) Showing township section lines accurately tied to the lines of the subdivision by distances and courses; and

(4) Showing municipal corporation lines within and adjacent to the tract.

(D) Boundary description by section, township and range, together with the legal description.

(E) Exact location, dimensions and names, as applicable, of the following.

(1) Existing and proposed rights-of-way, public ways and easements, labeled Public Right-of-Way, Public Way, Public Utility Easement, Public Drainage Easement or Public Utility and Drainage Easement, as appropriate.

(2) All existing or proposed streets within and adjacent to the tract, with existing and proposed names.

(a) Names of proposed streets shall, where possible, conform to the names of corresponding streets that abut and are to be extended into the subdivision.

(b) Except for the extensions, no proposed name shall duplicate that of any other street in the town.

(c) Street names for streets within the town are subject to the approval of the Town Council.

(3) Proposed parks and other open public spaces, and parcels of land to be dedicated or temporarily reserved for public use or set aside for use of the property owners in the subdivision.

(4) Permanent buildings or structures.

(5) In the case of a re-plat, all the descriptive lines of the original plat being vacated shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines so as to avoid ambiguity or confusion.

(6) Contours of the land as follows.

(a) Where slopes are less than 20%, show vertical intervals of 1 foot.

(b) Where slopes exceed 20%, show vertical intervals of 5 feet.

(7) Where lands are identified as flood hazard areas, show:

(a) The elevation of the regulatory flood; and

(b) The area subject to inundation by the regulatory flood.

(8) Layout and numbering of lots.

(9) Dimensions on all lots, including lines, arcs, curves and easements.

(10) Building setback lines with dimensions.

(F) The private restrictive covenants, if desired, for the plat.

(G) A notation shall be included stating that none of the terms of the plat, except the private restrictive covenants, shall be changed without the approval of the Plan Commission.

(H) The following certifications, names and signatures, in the order shown:

(1) Property owner(s) names and signatures, with the acknowledgment of a notary public.

(2) Petitioner(s) names and signatures, with the acknowledgment of a notary public, if other than the property owner(s).

(3) Signature, registration number and seal of the registered professional land surveyor preparing the plat.

(4) Certification of the President and Secretary of the Plan Commission.

(5) Certification of the Town Council President and the Clerk-Treasurer.
(Ord. passed - -, § 153.024)

FINAL PLAT AND SECONDARY APPROVAL

§ 153.060 SECONDARY APPROVAL.

(A) After primary approval of the plat by the Director of Planning Services, the petitioner shall proceed to install the improvements required by the primary approval.

(B) When the required improvements have been installed and otherwise completed, inspected and accepted by the appropriate utilities and all terms and conditions of the primary approval have been satisfied, the plat or an approved phase thereof, may be granted secondary approval.

(1) No notice or hearing is required for secondary approval.

(2) The Planning and Zoning Administrator, under the authority given by the Plan Commission, has the authority to grant secondary approval, as long as the proposed plat submitted for secondary approval is substantially in compliance with the preliminary plat approved by the Plan Commission.

(3) Secondary approval for minor subdivisions may be requested at the primary approval hearing.

(C) A plat may not be filed and recorded with the County Auditor unless the Plan Commission has granted secondary approval.
(Ord. passed - -, § 153.030)

§ 153.061 RECORDING OF APPROVED PLAT.

(A) Within 60 days after the secondary approval of a plat or a phase thereof, the petitioner shall have a fully-signed original of the plat recorded with the County Recorder, and shall deliver 1 copy of the recorded plat to the following agencies:

(1) The town; and

(2) The County Auditor.

(B) The petitioner shall be responsible for payment of all fees required for recording and copying of the plat.
(Ord. passed - -, § 153.031)

§ 153.062 FAILURE TO RECORD PLAT.

If the final plat is not filed and recorded within 60 days following secondary approval, it shall have no validity and shall not be recorded except by re-certification and re-approval of the Plan Commission.

(Ord. passed - -, § 153.032)

§ 153.063 PHASING OF CONSTRUCTION.

(A) Where it is in the interest of the petitioner to complete construction of the improvements required by the primary approval in phases rather than at once, the petitioner shall so state in writing to the Plan Commission, and deliver the request, together with maps and drawings showing the intended phasing of the project.

(B) The Plan Commission may, at its option, provide secondary approval to each phase as it is built, provided that at no time shall the phasing plan produce an unsafe condition or utility layout that is not in compliance with the requirements of Indiana law or this code.
(Ord. passed - -, § 153.033)

§ 153.064 SECONDARY APPROVAL PRIOR TO COMPLETION OF IMPROVEMENTS.

(A) Pursuant to I.C. 36-7-4-709, the Plan Commission may grant secondary approval of a plat prior to completion of the improvements required under the primary approval, provided that the petitioner files 1 or more security instruments with the Clerk-Treasurer, which shall be in an amount determined by the Director of Planning Services and approved by the Plan Commission, as sufficient to complete the required improvements and installations.

(B) Acceptable security instruments include:

(1) A subdivision or performance bond;

(2) A cash bond held in an escrow account;

(3) A certificate of deposit held in the joint names of the petitioner and the town, or assigned to the town;

(4) An irrevocable letter of credit issued to the town, with terms acceptable to the Town Council;

(5) A bond secured with real estate in which the petitioner has marketable fee simple title.

(C) The security instrument that is accepted shall name or run to the Town Council for the estimated time of completion of the improvements, and shall include terms and conditions acceptable to the Board of Public Works and Safety, to ensure that the improvements shall be completed within the allotted time.

(D) Any terms providing for reductions in the face amount of an instrument during the course of installation of improvements shall include a requirement that the Town Council approve any and all reductions.
(Ord. passed - -, § 153.034)

§ 153.065 DETERMINATION OF COMPLIANCE WITH PRIMARY APPROVAL.

(A) The Director of Planning Services shall assist the Plan Commission in determining compliance with the requirements of the primary approval.

(B) In so assisting, the Director of Planning Services shall require a finding by all interested utilities or the County Commissioners, as appropriate, that all required public infrastructure has been installed in accordance with the primary approval.
(Ord. passed - -, § 153.035)

§ 153.066 EVIDENCE OF COMPLIANCE WITH PRIMARY APPROVAL.

(A) Satisfactory evidence that the improvements and installations required under a primary approval have been completed and are in accordance with the requirements of this chapter shall include, but not be limited to, all of the following:

(1) Submission of satisfactory test results for all systems that require testing to meet design, local, state and/or federal requirements;

(2) Submission of letters from all private utility agencies and organizations, and/or the town's utilities, stating that the installation of public utility lines and public works has been accomplished in full compliance with the plans and specifications of the preliminary plat and are, therefore, accepted for maintenance; and

(3) The petitioner's submission to the Director of Planning Services of a signed statement that:

(a) The petitioner has performed a review and inspection of the required improvements;

(b) The petitioner has compared those improvements to the requirements of the preliminary plat approval; and

(c) All requirements under the preliminary plat approval have been satisfactorily completed.

(B) With the approval of the Town Council, the Director of Planning Services shall make a final determination concerning the acceptability of each piece of evidence as proof of satisfactory completion of the requirements of the primary approval.
(Ord. passed - -, § 153.036)

§ 153.067 FINAL PLAT REQUIRED FORMAT.

(A) The petitioner shall submit 4 Mylar (or equivalent) tracings of the proposed final plat for original signatures.

(B) The proposed final plat shall be formatted as follows:

(1) As a guideline only, sheets should measure 20 inches in width and 18 inches in height;

(2) Where the plat has been prepared using CAD software, a copy of the plat shall be delivered to the Plan Commission on computer disk; and

(3) Scale shall be the same as that of the preliminary plat.
(Ord. passed - -, § 153.037)

§ 153.068 FINAL PLAT REQUIRED INFORMATION.

The information required for the preliminary plat shall also be provided on the final plat, together with any changes or additions required by the Plan Commission as conditions of primary approval.
(Ord. passed - -, § 153.038)

DEVELOPMENT PLAN

§ 153.085 APPLICABILITY.

Except as noted, the following standards apply to all Development Plans and subdivisions of land.
(Ord. passed - -, § 153.045)

§ 153.086 DEVELOPMENT STANDARDS.

In addition to the requirements under this chapter, each Development Plan for subdivision approval shall contain the requirements under Chapter 152.
(Ord. passed - -, § 153.046)

§ 153.087 SUBDIVISION AND DEVELOPMENT PLANS REQUIRED.

(A) Subdivision of land is permitted in all zoning districts within the planning and zoning jurisdiction of the town.

(B) Subdivision and Development Plans, and subdivision plats, shall be required for all subdivisions of land, except exempt subdivisions of land, in all zoning districts within the planning and zoning jurisdiction of the town.
(Ord. passed - -, § 153.047)

§ 153.088 CERTIFICATION OF DESIGN.

The design of the preliminary plat and secondary or final plat for a subdivision and each Development Plan, shall be certified by a registered professional land surveyor or engineer licensed by the State of Indiana.
(Ord. passed - -, § 153.048)

§ 153.089 DEVELOPMENT AND SUBDIVISION PLAN APPROVAL.

(A) The Plan Commission shall approve the Development Plan and site plan for a subdivision of land that requires its approval.

(B) It is hereby required that no plat or subdivision of any lot, or any part thereof, within the town's territorial jurisdiction shall be entitled to be recorded in the county or have any validity until it has been approved in accordance with the criteria of this code.
(Ord. passed - -, § 153.049)

§ 153.090 EXEMPT SUBDIVISIONS OF LAND.

The following subdivisions of land shall be exempt from the requirements of this chapter:

(A) The division of a lot into more than 1 lot as a part of the settlement of an estate by a court of law.

(B) A division of land for a unit of government to acquire or improve a right-of-way.

(C) An adjustment of lot lines between existing adjoining lots that shall not reduce the area, frontage, width, depth or building setback lines on each lot below the minimum standards in this code, and does not change the number of lots.

(D) A division of land into cemetery plots for public or private burial.
(Ord. passed - -, § 153.050)

§ 153.091 DEVELOPMENT PLAN STANDARDS.

(A) Each Development Plan and site plan shall incorporate improvements that conform to the standards under the zoning ordinance and this chapter.

(B) Except where noted, these requirements are minimum requirements.

(C) Where necessary to accommodate the particular needs of the Development Plan and site plan under review, or the particular needs of the community outside of the proposed development that will be impacted by the development, the Plan Commission may include higher standards and greater requirements.
(Ord. passed - -, § 153.051)

§ 153.092 COMPLIANCE WITH COMPREHENSIVE PLAN, SUBDIVISION AND ZONING ORDINANCES.

(A) Before plan approval shall be granted, the Plan Commission shall determine if the Development Plan and site plan complies with the provisions of the Comprehensive Plan, the subdivision and zoning ordinances.

(B) In making its determination, the Plan Commission shall review the Development Plan for, but not limited to, the following.

(1) Compatibility of the Development Plan with surrounding land uses.

(2) Compatibility of the Development Plan with the recommendations of the Comprehensive Plan.

(3) Adequate provisions for internal management of traffic.

(4) Analysis of the capacity of adjacent streets to ensure that they can safely and efficiently accommodate the additional traffic generated by the development.

(5) Adequate provisions for public facilities and infrastructure, and provisions for the extension of infrastructure to adjacent developable properties.

(6) Provisions for the allocation of land for streets, parks, schools, public and semi-public buildings, homes, businesses and industry, as appropriate.

(7) Adequate on-site management of stormwater and erosion control.

(8) Adequate preservation of healthy trees over 30 inches in diameter, and conservation of sensitive and/or unique natural environments, such as view sheds, creeks, wetlands and karsts landscapes.

(C) However, compliance with these provisions shall not exclude other provisions of the Comprehensive Plan or other conditions favorable to health, safety and convenience, and the harmonious development of the territorial jurisdiction of the town.
(Ord. passed - -, § 153.052)

§ 153.093 CONDITIONS OF THE LAND.

(A) No land shall be developed if the land:

(1) Is considered by the Plan Commission as unsuitable for the development by reason of flooding, improper drainage or any topographic feature deemed harmful to the health and safety of the community; or

(2) Shall qualify for environmental review by any environmental condition of the land, which has not been reviewed and/or remediated in accordance with federal and state laws.

(B) Due consideration shall be given by the petitioner to the prevention of air and stream pollution, preservation of trees and unique sensitive habitat, and the proper treatment and disposal of waste and refuse.
(Ord. passed - -, § 153.053)

§ 153.094 PUBLIC SITES.

(A) Whenever the reasonable requirements provided by these regulations shall indicate the necessity for providing for a school site, park or other recreational site, or other public lands within any proposed development, and if the lands have not been dedicated to the city, county, local board of education or other appropriate public agency, and if no provision has been made for the dedication, then the lands shall be reserved for acquisition, by purchase or other means, by the appropriate agency having jurisdiction over the land for a period of not less than 4 years.

(B) If the 4 years has expired without acquisition procedures having begun, the owners of the lands shall have the right to develop the lands in any other manner consistent with these regulations.
(Ord. passed - -, § 153.054)

§ 153.095 ESTIMATE OF COST OF CONSTRUCTION.

The petitioner shall employ a registered professional land surveyor or engineer to make an estimate of the probable expenditures necessary to enable the petitioner to build the required improvements in conformance with the standards established in this code and the town.
(Ord. passed - -, § 153.055)

§ 153.096 WAIVER AND MODIFICATION OF DEVELOPMENT PLAN.

(A) Where evidence may support a petitioner's challenge to these regulations, in that extraordinary hardship or practical difficulty may result from strict compliance with these regulations, and/or that the purpose of these regulations may be served to a greater extent by an alternative proposal, innovative concept plan or cluster development, the proposed plan shall be referred to the Plan Commission.

(B) The Plan Commission may grant a waiver to these development regulations so that substantial justice may be done and the public interest secured; provided that:

(1) The waiver shall not have the effect of nullifying the intent and purpose of these regulations; and

(2) The Plan Commission shall not grant a waiver unless it shall make findings in writing based upon the evidence presented to it in each specific case that the following criteria have been affirmatively determined:

(a) If granted, the waiver will not be detrimental to public safety, health or welfare or injurious to other property;

(b) Except for innovative design concept, the conditions upon which the request for a waiver is based on the uniqueness of the property for which waiver is sought, and are not applicable generally to other property;

(c) Due to the peculiar physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from mere inconvenience, if the strict letter of these regulations is carried out:

1. Financial hardship shall not constitute grounds for a waiver.

2. However, innovative design concept and/or clustering of structures to minimize infrastructure costs and design around natural features may be considered for a waiver to the strict application of the subdivision code.

(d) The waiver shall comply substantially with the provisions of the Comprehensive Plan.

(C) A petition for waiver shall be submitted in writing by the petitioner prior to the Plan Commission's hearing for approval of the preliminary plat.

(1) The petition shall state fully the reasons for the application and the facts relied upon by the petitioner.

(2) Where the waiver has an impact on design and construction of public facilities, all appropriate public agencies shall be given ample time to investigate the petition and comment in writing to the Plan Commission.

(3) In approving waivers, the Plan Commission may require the conditions as will, in its judgment, substantially secure the objectives of the subdivision regulations.

(4) Where the waiver requested involves innovative design concept or clustering of structures, additional drawings, site plan attachments, support documentation and/or qualified opinions may be required.
(Ord. passed - -, § 153.056)

§ 153.097 APPEALS TO THE PLAN COMMISSION.

(A) Any person aggrieved by a decision of the Plan Commission concerning any official action on an application for subdivision approval may appeal to the Plan Commission in writing for modification of their decision in accordance with I.C. 36-7-4708.

(B) Where a decision by the Plan Commission was made at a public hearing and that decision is under appeal, a public hearing shall again be required in order to hear the appeal of that decision.
(Ord. passed - -, § 153.057)

§ 153.098 SURVEY MONUMENTS.

(A) For any subdivision of land, permanent survey monuments shall be set:

(1) At the corners and other points of angular change in the perimeter of the subdivision;

(2) At all intersections of lot lines with other lines; and

(3) At points of angular change in lot lines.

(B) Monuments shall be 5/8 inch diameter by 30 inch long steel bars, each with the surveyor's registration number on its cap.

(C) Monuments shall extend not more than 1 inch above nor more than 3 inches below the finished grade of the land.
(Ord. passed - -, § 153.058)

§ 153.099 BLOCKS.

(A) Blocks shall not exceed 800 feet in length, as measured between the right-of-way lines of the cross streets, or from the right-of-way line of the cross street and the rearmost property line of the lot at the end of a cul-de-sac or dead-end street.

(B) Cul-de-sacs may not be any longer than 600 feet, and shall end at a 80 foot diameter circle drive for fire truck turnaround space.
(Ord. passed - -, § 153.059)

§ 153.100 LOTS AND STREETS.

(A) All lots shall be arranged so that each building or structure to be placed thereon shall have adequate space for light, air and fire protection.

(B) Each building shall be so sited as to provide convenient access to streets and parking facilities.

(C) The following specifications shall apply to all lots.

(1) *Rights-of-way and streets.*

(a) Every lot shall abut an improved street in a dedicated public right-of-way.

(b) No double-fronted lots where homes abut 2 parallel streets are allowed.

(2) *Building setbacks.*

(a) Minimum building setback lines shall be established on all lots.

(b) Minimum building setback lines shall be appropriate for the location of the subdivision, for the type of development and the use contemplated.

(c) Provided, however, that they shall be not less than the standards established in the zoning ordinance for the zoning district in which the lot is located.

(3) *Area and frontage.*

(a) The area, minimum frontage, depth and width requirements shall be not less than the standards established in the zoning ordinance.

(b) Waivers may be possible for innovative design concepts or cluster design.

(4) *Lot line design.* Side lot lines at right-angles to street lines are preferred, except for curve or cul-de-sac locations.

(D) Minimum right-of-way, street and alley construction standards are in the subchapter on streets and rights-of-way, §§ 153.120 through 153.136.
(Ord. passed - -, § 153.060)

§ 153.101 ALLEYS.

(A) Alleys are generally not recommended and may be considered for innovative, "New Urbanism" designs only.

(B) The waiver process may be followed at the developer's request.
(Ord. passed - -, § 153.061)

§ 153.102 UTILITY EASEMENTS.

(A) *Use of stormwater easements prohibited.* The public utility easement shall not be used as surface stormwater easements, and access to utility easements for utility installation or service shall not be via surface stormwater easements.

(B) *Standards.* Dedicated public utility easements shall be provided in accordance with the following standards.

(1) *Rear lot lines.*

(a) Where a dedicated public alley is not provided along the rear of each lot, each lot shall have a public utility easement of not less than 20 feet in width located along the entire width of the rear lot line.

(b) Where so located along lot lines within the subdivision, 1/2 of the easement shall be taken from the rear of each lot.

(2) *Side lot lines.* Public utility easements shall be dedicated along interior side lot lines, as required by the conditions of the installation of services and as determined by the providers thereof.

(3) *Front lot lines.* In addition to the right-of-way dedication, public utility easements may be required as a condition of approval of a subdivision of land to facilitate the installation of services where the services cannot be provided except under the paved portion of a street.
(Ord. passed - -, § 153.062)

STREETS AND RIGHTS-OF-WAY

§ 153.120 APPLICABILITY.

The street development standards in this subchapter apply to all streets within the towns planning jurisdiction.
(Ord. passed - -, § 153.070)

§ 153.121 GENERAL DESIGN CONSIDERATIONS.

(A) Street layout and construction shall take into account the relationship of the proposed streets to:

(1) Existing and planned streets;

(2) Adjacent developments;

(3) Topographical conditions;

(4) Public convenience and safety; and

(5) The proposed uses of the land to be served by the streets.

(B) Where a new street is located in a dedicated public right-of-way and complies with the design and construction requirements for inclusion in the maintenance program of the town or county, as appropriate, the petitioner shall dedicate the street to the town or county as public improvements after construction and acceptance by the town or county.
(Ord. passed - -, § 153.071)

§ 153.122 STREET DESIGN STANDARDS.

(A) The petitioner shall design and provide the proposed development with paved streets in dedicated public rights-of-way in accordance with this code’s design criteria.

(B) Plans, profiles and cross sections for paved streets shall be prepared by a registered professional engineer or land surveyor and approved by the Town Council.

(C) Where any design standards are not specified herein, the design standards of the Indiana Department of Transportation's 1995 Standard Specifications, as amended, shall be used.
(Ord. passed - -, § 153.072)

§ 153.123 SIGHT DISTANCE.

At the intersection of any street, alley or driveway with a street, the minimum distance that an observer sitting in an automobile at the intersection shall be able to see a vehicle approaching from any direction on a through street crossing the intersection shall be not less than the distance shown below corresponding to the posted speed limit:

Mph	***Feet***
20	177
25	217
30	267
35	328
40	403
45	482
50	571
55	655

(Ord. passed - -, § 153.073)

§ 153.124 EXTENSION OF STREETS.

In order to provide for future development of adjacent land, and as required by the Plan Commission, the following shall apply.

(A) *Proposed streets.* Proposed streets shall be extended to the boundary line of an adjacent tract, and terminated without a turnaround.

(B) *Extension of streets.* Where an existing street terminates at the boundary line of a proposed subdivision, either the street shall be continued in the street pattern of the proposed subdivision, or a turnaround shall be provided in the proposed subdivision in accordance with the requirements for cul-de-sacs.

(C) *Cul-de-sacs.* Except for streets approved for future extension into adjacent developable territory, the closed end of a dead-end street shall be provided with a cul-de-sac for vehicle turnaround with an 80 foot radius.

(D) *Connectivity.*

(1) Except for subdivisions of 10 lots or less, a connecting through street to channel traffic easily from 1 subdivision to another is required.

(2) Loop roads may be used if the through street is blocked by a topographical constraint.

(E) *Access.*

(1) Subdivisions over 10 lots must provide 2 access ways in and out of the subdivision for emergency vehicles.

(2) Loop roads may loop back to 1 main entrance if the loop effectively gives access in 2 directions.
(Ord. passed - -, § 153.074)

§ 153.125 INTERSECTIONS.

Proposed intersections shall comply with the following design criteria:

(A) *Cross streets.*

(1) The extension of a proposed street into the development in alignment with an existing street at an intersection shall be preferred.

(2) Where a proposed intersection cannot match the centerline alignment of an existing street at the intersection, the intersection shall be offset by not less than 125 feet.

(B) *Driveways.* Driveways shall have the following minimum separation distances:

(1) Not closer than 25 feet to the intersection of any streets or alleys;

(2) Not closer than 4 feet to any other curb opening; and

(3) Not closer than 2 feet to a property line.

(C) *Angle of intersection.* Streets and driveways shall intersect as nearly as possible at right angles, but not less than 70 degrees nor more than 110 degrees.

(D) *Arc.* Property lines at intersections shall be rounded by the following arcs:

(1) At the intersection of a local street with another street: at least 25 feet; and

(2) At all other street intersections: at least 50 feet.
(Ord. passed - -, § 153.075)

§ 153.126 GRADING.

Final surface grades on streets shall be not less than 0.5%, nor greater than 8%, as measured along the centerline of the street.
(Ord. passed - -, § 153.076)

§ 153.127 TRAVERSE SLOPES.

(A) The slope of the pavement from the crown of the street to the edge of pavement, or pan of the gutter if present, shall be 2.08%.

(B) The slope on shoulders shall be 4%.
(Ord. passed - -, § 153.077)

§ 153.128 MINIMUM RADII OF CURVATURE ON THE CENTERLINE.

Where a deflection angle of greater than 10 degrees in die alignment of a street occurs, a curve shall be introduced as follows:

(A) Collector streets: 500 feet; and

(B) Local and industrial streets: 150 feet.
(Ord. passed - -, § 153.078)

§ 153.129 MINIMUM RIGHT-OF-WAY WIDTHS.

(A) Where a proposed lot abuts an existing public street with a half right-of-way width of less than 30 feet on the side of the street on which the lot is located, the owner shall dedicate land as necessary to provide a half right-of-way of 30 feet width as a public half right-of-way along the entire property line that abuts the street, except, however, that where the street is a state or federal street, the half right-of-way dedication shall conform with the state or federal requirement for the particular street on which the lot abuts, but shall be not less than 30 feet of the total half right-of-way width.

(B) The minimum width of dedicated public right-of-way within a development including a subdivision shall be not less than:

(1) Streets: 60 feet;

(2) Cul-de-sac (local street): outside diameter of 100 feet; and

(3) Cul-de-sac (industrial street): outside diameter of 120 feet.

(C) (1) The right-of-way width for streets under state or federal control shall be as determined by the owner thereof, but shall be dedicated at not less than 60 feet in width.

(2) Arterial streets or streets subject to widening may require a 50 foot dedication from the centerline.
(Ord. passed - -, § 153.079)

§ 153.130 HALF RIGHTS-OF-WAY FOR STREETS AND ALLEYS.

Dedication of half rights-of-way along the boundary of the land to be developed will be permitted only if the owner of the adjoining undeveloped land simultaneously dedicates the other half of the right-of-way as part of the plat.
(Ord. passed - -, § 153.080)

§ 153.131 PAVEMENT WIDTHS.

Minimum widths of paved surfaces of streets and alleys shall be:

Street Classification	***Width of Pavement, including Curb and Gutter***
Collector and local streets	Director of Planning Services uses the Street Department and thoroughfare plan
Cul-de-sac: local street	80 feet back-to-back of curb and gutter
Cul-de-sac: industrial street	100 feet back-to-back of curb and gutter

(Ord. passed - -, § 153.081)

§ 153.132 PAVEMENT MATERIALS AND MINIMUM DEPTHS.

Pavements shall meet the following standards:

Material	***Depth***	
	Industrial and Collector Streets	Local Streets
Sub-Base (under all pavements)		
Compacted aggregate #53 (95% density)	8 inches	6 inches
Flexible asphaltic pavement		
Base #5	3 inches	2 inches
Binder #9	2 inches	N/A
Surface #11	1 inch	1 inch
Portland cement concrete pavement		
Concrete (3,500 p.s.i. or greater, as required by the traffic load)	7 inches	6 inches
Note: Expansion joints shall be provided at the ends of each radius section and every 150 feet. Control joints shall be provided every 10 feet.		
Chip and seal pavement		
N/A	N/A	Local standard

(Ord. passed - -, § 153.082)

§ 153.133 CURBS AND GUTTERS.

(A) Concrete curbs and gutters shall be installed on each side of the paved street surface.

(B) The type selected shall be either stand-up, rolled or V-curb and according to the following specifications:

(1) *Base.* The base for the curb and gutter shall be 3 inches of compacted #53 aggregate or #11 stone.

(2) *Expansion and control joints.*

(a) Expansion joints shall be provided at the ends of each radius section and every 150 feet.

(b) Control joints shall be provided every 10 feet.

(c) Joints shall be filled with approved foams.

(3) *Concrete.* All concrete used in the curb and gutter shall be 3,500 p.s.i. or greater, as required by the traffic load, and shall meet the standard specifications for curbs and gutters of the Indiana Department of Transportation.
(Ord. passed - -, § 153.083)

§ 153.134 SHOULDERS.

Grass-surfaced shoulders, with a width of not less than 6 feet and a slope with a run and/or rise ratio of 3:1 or flatter, shall be installed along and adjacent to each side of a developed street or alley, and shall blend into the adjoining yard or drainage improvements as required.
(Ord. passed - -, § 153.084)

§ 153.135 SIDEWALKS.

(A) Sidewalks are required.

(1) Where installed, they shall be constructed of Portland cement concrete, not less than 4 inches thick and 5 feet wide, on 3 inches of compacted #53 aggregate.

(2) The slopes shall have run/rise ratios of 12:1 longitudinal and 50:1 lateral or flatter.

(3) Terminations at streets and driveways shall be ADA compliant.

(B) The following are encouraged:

(1) Tree plots between the sidewalk and the curb;

(2) Walking trails through natural areas and along the boundary of the subdivision; and

(3) Trails to other natural locations and parks.

(C) Added walking trails, green space and playgrounds may qualify a development for a density bonus.
(Ord. passed - -, § 153.085)

§ 153.136 SIGNS.

The petitioner shall provide the development with street signs, including, but not limited to, stop, street identification, parking control and information signs, in accordance with the standards of the town and the County Highway Department, and those in the *Indiana Manual on Uniform Traffic Control Devices for Streets and Highways.*
(Ord. passed - -, § 153.086)

WASTEWATER SERVICE

§ 153.150 WASTEWATER TREATMENT; SANITARY SEWER STANDARDS.

(A) Where the system is to be connected to a public wastewater treatment system, the plans shall be certified by a professional engineer registered in Indiana.

(B) Where the system will connect to the town's wastewater facilities:

(1) The system shall be designed in accordance with the town's design standards;

(2) The plans shall be approved by the Town Council; and

(3) The petitioner shall obtain Indiana Department of Environmental Management construction permits.

(C) In all other cases, design and plan approval shall be by the appropriate county, state and federal agencies as required.

(D) The town may enter into contractual services to run, maintain or advise the operation of the town's wastewater facilities.

(E) Expansion and sizing of wastewater facilities must consult the land use policies of the Comprehensive Plan.
(Ord. passed - -, § 153.090)

§ 153.151 ACCEPTANCE OF IMPROVEMENTS.

(A) Where a new system is connected to the town's wastewater treatment facilities, conforms with the town's design and construction requirements, is located in a public right-of-way or dedicated public utility easement, and is accepted by the town. The petitioner may dedicate the public components of the system to the town as public improvements after installation.

(B) As-built plans for the completed system shall be filed with the Town Wastewater Department.
(Ord. passed - -, § 153.091)

§ 153.152 WASTEWATER TREATMENT OPTIONS.

(A) Options for the method of wastewater treatment for a proposed development do not exist.

(B) New methods for waste water disposal may be designed and models may be built on a small scale for research.

(C) However, no residential, commercial or industrial waste water system may be substituted for the town's public waste water system that is already in place.
(Ord. passed - -, § 153.092)

WATER SERVICE

§ 153.170 WATER SUPPLY SYSTEM STANDARDS.

(A) Where the system is to be connected to a public potable water system, the plans shall be certified by a professional engineer registered in Indiana.

(B) Where the system will connect to the town's or another public water distribution system:

(1) The system shall be designed in accordance with the town's design standards;

(2) The plans shall be approved by the Town Council or another utility board; and

(3) The petitioner shall obtain Indiana Department of Environmental Management construction permits.

(C) In all other cases, design and plan approval shall be by the appropriate county, state and federal agencies as required.
(Ord. passed - -, § 153.100)

§ 153.171 ACCEPTANCE OF IMPROVEMENTS.

(A) Where a new system is connected to the town's water facilities, conforms with the town's design and construction requirements, is located in a public right-of-way or dedicated public utility easement, and is accepted by the town, the petitioner shall dedicate the public components of the system to the town as public improvements after installation.

(B) As-built plans for the completed system shall be filed with the Town Water Utility Department.
(Ord. passed - -, § 153.101)

§ 153.172 FIRE HYDRANTS.

(A) On any potable water supply system installed in an area served by the Town Fire Department, the petitioner shall install fire hydrants along the water main at intervals not to exceed 600 feet.

(B) Fire hydrant plans and installation shall be approved by the Town Council.

(C) Fire truck ease of access is required.
(Ord. passed - -, § 153.102)

ELECTRIC AND COMMUNICATIONS SERVICES

§ 153.190 ELECTRIC SERVICE.

(A) The petitioner shall arrange for the provision of a complete electric service supply system, providing not less than 2 phase, 120 volt, 60 cycle electric service, and located within dedicated public rights-of-way or public utility easements.

(B) Within the town, provisions shall be included for locating street lights at intersections, as required under the town's street light policy.

(C) The developer shall pay for the provision of street lights.

(D) Providing numbers of street lights sufficient for safety must be balanced by a concern for not adding to overall light pollution.
(Ord. passed - -, § 153.110)

§ 153.191 COMMUNICATIONS SERVICES.

(A) The petitioner is required to arrange for the provision of a system of telephone and other communications services.

(B) Dedicated public rights-of-way or public utility easements shall be provided for these services.
(Ord. passed - -, § 153.111)

ADMINISTRATION AND ENFORCEMENT

§ 153.205 DUTIES OF THE DIRECTOR OF PLANNING SERVICES.

The designated Town Director of Planning Services is hereby vested with the duty to administer and enforce the regulations under this chapter.
(Ord. passed - -, § 153.120)

§ 153.206 REFERENCE TO OTHER STATUTES AND REGULATIONS.

Any legal citation or reference to another statute, ordinance or regulation shall be meant to include all amendments thereto or replacement thereof.
(Ord. passed - -, § 153.121)

§ 153.207 CONFLICT WITH OTHER STATUTES.

Where the requirements under this chapter are in conflict with the requirements of any other statute or law that is in effect within the town's territorial jurisdiction, the more restrictive requirements shall prevail.
(Ord. passed - -, § 153.122)

§ 153.999 PENALTY.

(A) Any person, firm or corporation violating any of the provisions of this chapter shall be fined $50 for each offense.

(B) A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
(Ord. passed - -, § 153.124)

CHAPTER 154: ECONOMIC REVITALIZATION AREAS

Section

154.001 Policies and Procedures for Tax Abatements
154.002 Declaration of Economic Revitalization Areas
154.003 Declaration of Blighted Areas

§ 154.001 PROCEDURAL REQUIREMENTS FOR TAX ABATEMENT

(A) I.C. 6-1.1-12-1 et seq, as it may be amended from time to time, shall govern all petitions seeking up to a 10-year property reassessment.

(B) All requests or petitions for property tax abatements in the Town of Spencer shall first be reviewed and considered by the Owen County Chamber of Commerce and Economic Development Corporation.

(C) The Owen County Chamber of Commerce and Economic Development Corporation shall review all abatement requests and make an advisory recommendation to the Spencer Town Council as to whether the abatement request should or should not be granted. The Town shall retain the exclusive authority to determine the eligibility for tax abatements and is not bound by the advisory opinion.

(D) The Owen County Chamber of Commerce and Economic Development Corporation shall establish procedures for considering and reviewing abatements and shall create general guidelines for the public concerning abatements and shall deliver and update such policies as they are promulgated from time to time to the Town.

(E) In consideration of providing the above-referenced services to those seeking tax abatements, the Owen County Chamber of Commerce and Economic Development Corporation shall charge an abatement application fee of Five Hundred Dollars ($500.00) to defray its expenses and, if the property is in a targeted redevelopment area a Targeted Redevelopment Fee of Two Hundred Fifty Dollars ($250.00). These fees shall be reviewed every two (2) years by the Spencer Town Council to decide its effectiveness in defraying the aforementioned expenses.

(F) The Owen County Auditors shall administer the processing of all state required forms associated with tax abatements.
(Ord. 2008-3, passed 5-5-2008)(Ord Amend 2015-02, passed 2/17/2015)

Statutory reference:
Authority, see I.C. 6-1.1-12-1 et seq

§ 154.002 DECLARATION OF ECONOMIC REVITALIZATION AREAS

(A) The Town of Spencer establishes the following areas to be economic revitalization areas:

Those portions of Section 19, Section 20, Section 21, Section 28, and Section 29 all in – Township 10 North – Range 3 West of the second principal meridian, Owen County, Indiana more particularly described as follows:

Considering the West line of the Northwest Quarter of said Section 20 as bearing South 00 degrees 22 minutes 57 seconds East with all bearings contained herein relative thereto.

Commencing at the Northwest corner of said Section 20, monumented by a Brass plug; thence on and along the West line of the Northwest Quarter of said Section 20, South 00 degrees 22 minutes 57 seconds East 2623.01 feet to the North right-of-way of State Road #46, same being the **POINT OF BEGINNING**; thence on and along said right-of-way, South 89 degrees 22 minutes 47 seconds East 96.78 feet to the beginning of a tangent curve to the right having a radius of 1475.00 feet, a central angle of 09 degrees 30 minutes 16 seconds, a radial line passing thru said point bears North 00 degrees 37 minutes 13 seconds East; thence on and along the arc of said curved right-of-way 244.68 feet to the Southeast corner of that certain parcel of land described in deed recorded in Book 209, Page 377 records of said county, thence on and along the East line of said certain parcel, North 00 degrees 22 minutes 57 seconds West 375.49 feet to the Northeast corner thereof; thence South 89 degrees 25 minutes 52 seconds East 993.92 feet; thence North 00 degrees 38 minutes 26 seconds West 593.28 feet; thence South 88 degrees 34 minutes 26 seconds East 922.82 feet; thence South 00 degrees 38 minutes 26 seconds East 241.46 feet; thence South 89 degrees 21 minutes 34 seconds West 486.00 feet; thence, South 00 degrees 38 minutes 26 seconds East 337.78 feet to an overhead power line; thence South 88 degrees 06 minutes 23 seconds East 479.49 feet to an overhead power line; thence on and along said power line, North 00 degrees 08 minutes 10 seconds West 123.05 feet; thence North 89 degrees 17 minutes 38 seconds East 1620.12 feet to the East right-of-way of old State Road #43; thence on and along said right-of-way, North 00 degrees 45 minutes 44 seconds West 310.99 feet to the beginning of a tangent curve to the right having a radius of 695.00 feet, a central angle of 26 degrees 32 minutes 47 seconds, a radial line passing thru said point bears South 89 degrees 14 minutes 16 seconds West; thence Northerly along the arc of said curved right-of-way 322.01 feet; thence leaving said right-of-way; North 89 degrees 32 minutes 21 seconds East 2047.99 feet; thence South 01 degrees 57 minutes 39 seconds East 132.00 feet to the intersection of the West right-of-way of Laymon Avenue and the North right-of-way of James Street; thence on and along said North right-of-way South 86 degrees 48 minutes 04 seconds East 155.50 feet to the beginning of a tangent curve to the left having a radius of 125.00 feet, a central angle of 70 degrees 49 minutes 42 seconds; thence Northeasterly on and along the arc of said curved right-of-way 154.52 feet; thence North 22 degrees 22 minutes 14 seconds East 97.09 feet to the beginning of a tangent curve to the right, having a radius of 60.00 feet and a central angle of 70 degrees 52 minutes 09 seconds; thence Northeasterly on and along said curved Right-of-Way 74.21 feet; thence continuing on and along said right-of-way and the easterly extension

thereof, South 86 degrees 45 minutes 37 seconds East 30.67 feet to the centerline of State Road #67; thence on and along said centerline, North 21 degrees 39 minutes 38 seconds East 359.60 feet; thence leaving said centerline, South 67 degrees 44 minutes 22 seconds East 259.66 feet to an iron pipe found; thence, North 39 degrees 07 minutes 38 seconds East 25.48 feet to an iron pipe found; thence South 54 degrees 51 minutes 22 seconds East 134.88 feet to an iron pipe found; thence South 10 degrees 02 minutes 38 seconds West 372.98 feet to an iron pipe; thence South 64 degrees 45 minutes 22 seconds East 238.79 feet to an iron pipe found; thence South 24 degrees 00 minutes 22 seconds East 534.86 feet to an iron pipe found; thence South 57 degrees 43 minutes 38 seconds West 424.38 feet to an iron pipe found; thence North 49 degrees 20 minutes 22 seconds West 51.92 feet to an iron pipe found; thence North 73 degrees 36 minutes 22 seconds West 39.87 feet; thence South 68 degrees 19 minutes 38 seconds West 59.81 feet; thence South 66 degrees 50 minutes 38 seconds West 252.00 feet; thence South 42 degrees 38 minutes 38 seconds West 52.00 feet to an iron pipe found; thence South 00 degrees 23 minutes 38 seconds West 86.03 feet; thence East 90 degrees 00 minutes 00 seconds 343.46 feet; thence South 77 degrees 30 minutes 00 seconds East 486.00 feet to the Northwest corner of Kay's Addition; thence the next 14 courses and distances being on and along the North, East and South lines of said Kay's Addition, North 88 degrees 25 minutes 08 seconds East 67.50 feet; thence South 71 degrees 08 minutes 52 seconds East 139.70 feet; thence South 75 degrees 41 minutes 52 seconds East 200.70 feet; thence South 74 degrees 06 minutes 52 seconds East 148.30 feet; thence South 70 degrees 04 minutes 52 seconds East 154.40 feet; thence South 71 degrees 30 minutes 52 seconds East 270.80 feet; thence South 02 degrees 04 minutes 08 seconds West 143.60 feet; thence South 75 degrees 42 minutes 08 seconds West 259.40 feet; thence South 67 degrees 33 minutes 08 seconds West 159.00 feet; thence South 65 degrees 08 minutes 08 seconds West 247.10 feet; thence South 72 degrees 34 minutes 08 seconds West 90.50 feet; thence South 73 degrees 11 minutes 08 seconds West 147.00 feet; thence North 68 degrees 20 minutes 52 seconds West 57.20 feet; thence North 12 degrees 05 minutes 52 seconds West 33.60 feet to the East right-of-way of Crane Avenue; thence on and along said right-of-way, South 03 degrees 02 minutes 04 seconds East 186.40 feet to the North right-of-way of State Road #46; thence on and along said North right-of-way, North 74 degrees 37 minutes 56 seconds East 362.85 feet to the Northeast corner of that certain parcel of land described in deed recorded in Book 207, Page 100 records of said county; thence the next four courses and distances being on and along the East and South lines of said certain parcel, South 00 degrees 09 minutes 56 seconds West 233.30 feet; thence North 89 degrees 50 minutes 04 seconds West 211.20 feet; thence South 00 degrees 09 minutes 56 seconds West 70.71 feet; thence North 89 degrees 50 minutes 04 seconds West 126.83 feet to the East right-of-way of said Crane Avenue; thence on and along said right-of-way South 03 degrees 02 minutes 04 seconds East 179.52 feet to the North rail of the Pennsylvania Railroad; thence on and said North rail, South 89 degrees 34 minutes 08 seconds West 955.37 feet to the Northerly extension of the East right-of-way of Taylor Street; thence on and along said Northerly extension and said East right-of-way, South 01 degrees 38 minutes 12 seconds East 727.70 feet to the South right-of-way of Jefferson Street; thence on and along said right-of-way, South 89 degrees 29 minutes 47 seconds West 444.70 feet; thence South 00 degrees 17 minutes 26 seconds East 1781.47 feet to the North bank of the White River; thence the next 7 courses and distances being on and along said North bank, North 75 degrees 10 minutes 07 seconds West 156.90 feet; thence North 67 degrees

38 minutes 48 seconds West 287.91 feet; thence North 65 degrees 17 minutes 46 seconds West 471.26 feet; thence North 68 degrees 52 minutes 16 seconds West 615.88 feet; thence North 82 degrees 21 minutes 02 seconds West 537.32 feet; thence North 86 degrees 55 minutes 33 seconds West 155.46 feet; thence South 80 degrees 52 minutes 44 seconds West 48.26 feet; thence North 00 degrees 38 minutes 35 seconds West 307.80 feet to a rebar; thence North 77 degrees 58 minutes 54 seconds West 1212.84 feet to a rebar; thence North 84 degrees 59 minutes 04 seconds West 1225.50 feet; thence North 00 degrees 12 minutes 05 seconds West 1285.77 feet; thence North 61 degrees 17 minutes 50 seconds West 114.00 feet to the centerline of Fifth Avenue; thence on and along said centerline South 69 degrees 20 minutes 55 seconds West 19.66 feet; thence continuing on and along said centerline, South 60 degrees 46 minutes 47 seconds West 7.93 feet to the West right-of-way of State Road #67 and the beginning of a non-tangent curve to the left having a radius of 595.89 feet and a central angle of 11 degrees 21 minutes 44 seconds, a radial line passing thru said point bears North 54 degrees 18 minutes 08 seconds West; thence on and along the arc of said curved right-of-way 118.71 feet; thence the next nine courses and distances being on and along said right-of-way, South 24 degrees 20 minutes 07 seconds West 705.96 feet; thence South 24 degrees 12 minutes 46 seconds West 449.96 feet to the beginning of a tangent curve to the left having a radius of 2295.46 feet and a central angle of 15 degrees 11 minutes 29 seconds, a radial line passing thru said point bears North 65 degrees 47 minutes 14 seconds West; thence Southwesterly on and along the arc of said curved right-of-way, 608.62 feet; thence South 09 degrees 01 minutes 17 seconds West 402.38 feet; thence South 19 degrees 38 minutes 54 seconds West 101.97; thence South 10 degrees 01 minutes 46 seconds West 98.81 feet to the beginning of a tangent curve to the right having a radius of 1241.78 feet, a central angle of 17 degrees 22 minutes 30 seconds, a radial line passing thru said point bears South 79 degrees 58 minutes 14 seconds East; thence Southerly on and along the arc of said curve 376.56; thence south 27 degrees, 24 minutes 16 seconds West; 379.06 feet to the beginning of a tangent curve to the left having a radius of 2020.41 feet, a central angle of 00 degrees 19 minutes 02 seconds, a radial line passing thru said point bears North 62 degrees 35 minutes 44 seconds West; thence on and along the arc of said curve 11.19 feet to the North line of Thornridge as recorded in Plat Book 3, Page T-1 records of said county; thence the next fourteen courses and distances being on and along the North, East, South, and West lines of said Thornridge, South 86 degrees 43 minutes 36 seconds East 27.36 feet to the West right-of-way of said State Road #67 and the beginning of a tangent curve to the left having a radius of 1995.41 feet, a central angle of 28 degrees 06 minutes 59 seconds, a radial line passing thru said point bears North 62 degrees 35 degrees 44 minutes West; thence on and along the arc of said curve 979.19 feet; thence North 89 degrees 02 minutes 34 seconds West 1305.14 feet; thence North 26 degrees 26 minutes 35 seconds West 146.66 feet; thence North 63 degrees 33 minutes 25 seconds East 180.75 feet; thence North 26 degrees 26 minutes 35 seconds West 185.37 feet; thence North 01 degrees 14 minutes 57 seconds East 110.10 feet; thence South 88 degrees 45 minutes 03 seconds East 248.28 feet; thence North 86 degrees 17 minutes 41 seconds East 226.76 feet; thence North 62 degrees 23 minutes 22 seconds East 57.74 feet; thence North 44 degrees 01 minutes 51 seconds East 181.41 feet; thence North 67 degrees 49 minutes 14 seconds East 98.97 feet; thence North 78 degrees 09 minutes 41 seconds East 144.96 feet; thence North 53 degrees 21 minutes 56 seconds East 252.09 feet; thence leaving the North line of said Thornridge Subdivision, North 00 degrees 54 minutes 47 seconds East 1036.32 feet;

thence North 00 degrees 01 minutes 55 seconds East 150.03 feet; thence North 88 degrees 51 minutes 57 seconds West 1920.00 feet; thence North 00 degrees 01 minutes 16 seconds East 407.99 feet to the centerline of Hyden Road; thence on and along said centerline, North 88 degrees 42 minutes 02 seconds West 424.44 feet to a 60D nail on the North-South centerline of said Section 19; thence on and along said North-South centerline, North 01 degrees 16 minutes 17 seconds West 2692.48 feet to the North right-of-way of State Road #46 and the beginning of a non-tangent curve to the left having a radius of 5665.38 feet, a central angle of 05 degrees 52 minutes 33 seconds, a radial line passing thru said point bears South 06 degrees 29 minutes 46 seconds West; thence Easterly on and along the arc of said curved right-of-way 580.99 feet; thence continuing on and along said right-of-way South 89 degrees 22 minutes 47 seconds East 129.43 feet; thence North 00 degrees 37 minutes 13 seconds East 680.00 feet; thence South 89 degrees 22 minutes 47 seconds East 400.00 feet; thence South 00 degrees 37 minutes 13 seconds West 680.00 feet to the North right-of-way of State Road #46; thence on and along said right-of-way South 89 degrees 22 minutes 47 seconds East 1486.36 feet to the **POINT OF BEGINNING.**

The above described parcel contains 805.58 acres and is subject to all easements and right-of-ways of record.

(Ord. 2008-2, passed 5-5-2008)

Statutory reference:

Authority, see I.C. 6-1.1-12.1-1 et seq.

§ 154.003 DECLARATION OF BLIGHTED AREAS

(A) The Town of Spencer establishes the following areas to be blighted areas:

The nine (9) block area that is centered around the Courthouse of Downtown Spencer.

(Res.2014-03, passed 5-19-2014

CHAPTER 155: RENTAL HOUSING

Section

Registration and Inspection Program

155.01 Purpose
155.02 Definitions
155.03 Compliance required; application of chapter
155.04 Registration of rental units required
155.05 Annual registration fees
155.06 Registration rental permits
155.07 Rental Housing Fund established

155.99 Penalty

REGISTRATION AND INSPECTION PROGRAM

§ 155.01 PURPOSE.

The purpose of this chapter is to provide for the registration and inspection of rental residential property, and to facilitate the prevention and correction of violations of laws and ordinances pertaining to rental residential property, so as to protect property values, the public health, safety and welfare of the people of the town, including but not limited to, the following:

(A) To protect the public health and safety by insuring rental units comply with the town's building codes, property maintenance codes and all other applicable regulations adopted by the State of Indiana or other governmental agency.
(B) To protect the character and stability of residential neighborhoods.
(C) To correct and prevent housing conditions that adversely affect or are likely to adversely affect the safety, general welfare and health of the persons occupying dwellings.
(D) To prevent the overcrowding of rental units.
(E) To facilitate the enforcement of minimum standards for maintenance of existing residential buildings and, thus, to prevent slums and blight.
(F) To preserve the value of property, land, and buildings throughout the town.
(Ord. 2017-05, passed 8-21-2017)

§ 155.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates
or requires a different meaning.

ADULT. Every person at least 18 years of age, or younger if emancipated.

DWELLING UNIT. The abode of a family; a single unit providing complete, independent facilities for the exclusive use of the household, including permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY. Includes all of the following:

(1) An individual;

(2) Two or more individuals related by genetics, marriage, legal adoption, foster care or guardianship, or other comparable relationship established by law; or

(3) Five or fewer individuals who constitute a relatively permanent functioning group living as a single housekeeping unit.

HABITABLE ROOM. Any room meeting the requirements of this chapter for sleeping, living, or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage places, utility rooms and similar spaces.

HOMESTEAD EXEMPTION. An individual's principal place of residence that: the individual owns; the individual is buying under a contract, recorded in the County Recorder's office; provides that the individual is to pay the property taxes on the residence; the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216, as may be amended) of a cooperative housing corporation; or is a residence described in I.C. 6-1.1-12-17.9 (as may be amended) that is owned by a trust if the individual is an individual described in I.C. 6-1.1-12-17.9 (as may be amended).

MULTI-FAMILY DWELLING. A residential building designed for, or modified to accommodate, more than one independent rental unit.

OCCUPANCY PERMIT. A permit allowing an owner to lease, rent, or otherwise use premises by tenants.

OWNER. Any person having a legal or equitable title in a rental building or premises.

PERSON. A corporation, firm, partnership, association, organization or any group acting as a unit, as well as a natural person. References in the masculine gender include the feminine and the neuter; those in the present tense include the future, and those in the singular include the plural.

PREMISES. A lot, plot or parcel of land containing a rental building or rental unit.

REGISTRATION PERMIT. The permit issued by the town upon registration of each rental unit.

RENTAL BUILDING. A building containing one or more rental units.

RENTAL HOUSING CODE. Sections 155.30 through 155.47 of this chapter.

RENTAL HOUSING OFFICER. That municipal officer charged with the primary responsibility of enforcement of the provisions of this chapter. As set out in § 155.12 hereof, the Spencer Town Clerk-Treasurer shall serve as the Rental Housing Officer.

RENTAL PERMIT. The form issued by the town to an owner upon completing the necessary documentation regarding a rental unit.

RENTAL UNIT. Any rented dwelling unit or rooming unit that does not have a homestead exemption on the property.

RENTAL UNIT COMMUNITY. One or more parcels of contiguous real property upon which are located one or more structures containing rental units, if:

(1) The combined total of all rental units in all of the structures is five or more rental units; and

(2) The rental units are not occupied solely by the owner or the owner's family.

ROOMING HOUSE. Any dwelling or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not related by blood or married.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

TENANCY AGREEMENT. Includes all agreements, written, oral or implied, and valid rules and regulations embodying the terms and conditions concerning the use and occupancy of a rental unit.

TENANT. Any person entitled to occupy a rental unit under a tenancy agreement to the exclusion of others.

(Ord. 2017-05, passed 8-21-2017)

§ 155.03 COMPLIANCE REQUIRED; APPLICATION OF CHAPTER.

(A) No person shall occupy or maintain a rental unit within the town unless in accordance with the provisions of this chapter. This chapter applies to all rental units located within the town, but shall not apply to the following:

(1) Occupancy in a single-family, owner-occupied dwelling unit with a homestead exemption.
(2) Occupancy in a "group home" or "residential institution" as those terms are defined by state statute.
(3) Occupancy in federally subsidized and owned housing complexes which have multiple on-site units and which are owned and maintained by the federal government or local housing authority, or scattered site Section 8 housing units administered by a local housing authority.
(4) Occupancy by the purchaser of a dwelling unit under a recorded contract of sale.
(5) Occupancy in a dormitory or other institute of higher learning.
(6) Transient occupancy in a hotel, motel or other similar lodging.

(B) It shall be the responsibility of each person owning or operating a dwelling unit that the person claims is exempt from this chapter, to produce such documentation or other information as may be requested by the Rental Housing Officer, or his or her designee, so as to permit the Rental Housing Officer or designee to determine whether the dwelling unit is exempt.
(Ord. 2017-05, passed 8-21-2017)

§ 155.04 REGISTRATION OF RENTAL UNITS REQUIRED.

(A) No owner of real estate within the town shall use that real estate for the purpose of erecting or maintaining a rental unit thereon after July 31, 2017, without registering each rental unit with the town and obtaining a rental permit. All existing rental units shall be registered and obtain a rental permit with the town by July 31, 2017. The registration shall be effected by furnishing to the town a complete and accurate application, upon forms prescribed by the town, setting forth the following information:
(1) The name of the owner;
(2) The address of the owner;
(3) The street address of the rental unit;
(4) The number of rental units on the property;If the owner is not an individual, or a resident of Owen County, Indiana, or a county contiguous to Owen County, the name, address and telephone number of the owner's agent authorized to receive notification of complaints, damages, emergencies, substandard conditions or other communications, including service of process. The address of any and all agents shall be within Owen County or a contiguous county. Any owner who does not reside in Owen County, Indiana, or a contiguous county shall be required to designate an agent.
(5) A current email and telephone number of the owner and/or agent.

(B) The registration application shall be signed by the owner. Whenever ownership of a rental unit or group or complex of rental units changes, the new owner shall have the responsibility to report the change in ownership to the town. Upon completion of an initial registration of the unit, a rental permit shall be issued for the rental unit, and shall remain valid and not expire until a change of ownership. Previously issued rental permits shall automatically expire 30 days following transfer of title to a registered property.

(C) Notification to the owner or his or her agent at the address shown on the registration application

shall constitute sufficient notice pursuant to any provision of this chapter. Registration of a rental unit shall be evidenced by issuance of a rental permit.
(Ord. 2017-05, passed 8-21-2017) Penalty, see § 155.99

§ 155.05 ANNUAL REGISTRATION FEES.

There shall be a $5 annual registration fee assessed for each rental unit, except as provided in I.C. 36-1-20-5 (as may be amended), located within the town after the initial registration and obtaining of a rental permit. The above-referenced registration fee shall be paid on or before January 31 of each year after a rental permit has been obtained.
(Ord. 2017-05, passed 8-21-2017) Penalty, see § 155.99

§ 155.06 REGISTRATION RENTAL PERMITS.

All rental units in the town shall obtain and maintain a valid rental permit, except for a rental unit community, which is required to obtain one rental permit for the complex as per I.C. 36-1-20-3.5 (as may be amended). For all registered rental units, the town shall issue a rental permit stating the date of the unit's registration. The owner of each rental unit shall be responsible for continuously maintaining a copy of the certificate. Each owner shall provide the Rental Housing Officer, or his or her designee, with a copy of the rental permit upon request. A rental permit shall otherwise remain in effect and not expire until suspended or revoked as set forth in this chapter. The issuance of a rental permit is not evidence that a property meets the requirements of this chapter or is otherwise fit for human habitation.
(Ord. 2017-05, passed 8-21-2017) Penalty, see § 155.99

§ 155.07 RENTAL HOUSING FUND ESTABLISHED.

(A) The Spencer Town Board hereby establishes a Rental Housing Non-Reverting Fund as required by I.C. 36-1-20-3 (as may be amended).
(B) The Rental Housing Officer, and/or his or her designee(s), shall have the authority for the collection, allocation and expenditure of all costs associated with the administration of the rental housing program.
(Ord. 2017-05, passed 8-21-2017)

§ 155.99 PENALTY.

(A) For submitting any other false or materially incomplete information on an application or any other information submitted under this chapter, a fine of up to $1,000, unless the violator has been convicted of a previous violation for submitting any other false or materially incomplete information on an application or any other information submitted under this chapter, in which case the fine may be up to $2,500.
(B) For failure to maintain a rental permit pursuant to § 155.06, a fine of up to $500, unless the violator has been convicted of a previous violation for failing to maintain a rental certificate, in which case the fine shall be up to $1,000.
(C) For failure to timely sign or submit a complete registration application, a fine of up to $100. Each day a violation of this provision exists or continues to exist constitutes a separate and distinct violation of this chapter, with maximum fine of $7,500.
(D) For rental of any dwelling unit without first obtaining or continuing to have a valid registration

permit, a fine of up to $100, unless the violator has been convicted of previous violation involving renting without a registration permit, in which case the fine shall be up to $500. Each day a violation of this provision exists or continues to exist constitutes a separate and distinct violation of this chapter.

(E) A person may appeal the determination of the Rental Housing Officer with respect to any determination as to registration and rental permit outlined in this chapter, within ten business days from notice to the owner of the property, based upon the information provided as part of the registration or by use of the address used for tax purposes as maintained by the Owen County Treasurer.

(F) If fines are imposed or inspection fees are not paid, then the Town Attorney's Office shall file liens upon the property for the outstanding balances due. Any such action required for the collection of said liens will be subject the violator additional fees for court costs and attorney fees associated with collection of the lien.

(Ord. 2017-05, passed 8-21-2017)

CHAPTER 156: REDEVELOPMENT COMMISSION

Section

155.01 Title
155.02 Purpose
155.03 Jurisdiction
155.04 Commissioners
155.05 Meetings
155.06 Conflict of Interest
155.07 Duties
155.08 Powers
155.09 Reporting Requirements

§156.01 TITLE

A redevelopment department is hereby established pursuant to the provisions of this section and IC 36-7-14 *et seq.* and said department shall be governed by a five (5) member board to be known as the "Town of Spencer Redevelopment Commission."
(Ord. 2014-08, passed 11/7/2014)

§156.02 PURPOSE

The purpose of this ordinance is to develop plans and manage tools used to address conditions of blight and underutilized land of economic significance.
(Ord. 2014-08, passed 11/7/2014)

§156.03 JURISDICTION

The provisions of this ordinance shall apply to all of the territory within the corporate boundaries of the Town of Spencer, Indiana and shall constitute a taxing district for the purpose of levying and collecting special benefit taxes as provided in IC 36-7-14 *et seq.*
(Ord. 2014-08, passed 11/7/2014)

§156.04 COMMISSIONERS

(A) Qualifications (voting or non-voting)
  (1) Must be eighteen (18) years of age or older; and,
  (2) Must be a resident of the Town of Spencer, Indiana.

(B) Appointment of Commissioners
  (1) The Town of Spencer Redevelopment Commission shall consist of five
    (5) voting commissioners that shall be appointed as follows:
      (a) Three (3) commissioners shall be appointed by the Town Executive.
      (b) Two (2) commissioners shall be appointed by the Legislative Body.

(2) The Town of Spencer Redevelopment Commission shall also consist of one (1) non-voting advisor appointed by the Spencer Town Board. The non-voting advisor must:

(a) Be a member of the school board of a school corporation that includes all or part of the territory served by the Redevelopment Commission.

(b) Not be a commissioner of the Redevelopment Commission for the purposes of this chapter but is entitled to attend and participate in the proceedings of all meetings of the redevelopment commission.

(c) Shall serve at the pleasure of the entity that appointed them.

(C) Term

(1) Each voting commissioner shall serve for one (1) year from the first day of January after his appointment until his successor is appointed and qualified, except that the original commissioners shall serve from the date of their appointment until the first day of January in the second year after their appointment. Should a vacancy occur, a successor shall be appointed in the same manner as the original commissioner, and the successor shall serve for the remainder of the term.

(2) The non-voting advisor shall serve for a term of two (2) years and until a successor is appointed.

(D) Oath

(1) Each commissioner shall take and subscribe an oath of office in the usual form, to be endorsed on the certificate of his appointment, which shall promptly be filed with the Clerk of the Owen Circuit Court.

(E) Bond

(1) Each commissioner shall, before beginning his duties, execute a bond payable to the state, with surety to be approved by the Spencer Town Board, in the penal sum of fifteen thousand dollars ($15,000.00). The bond must be conditioned on the faithful performance of the duties of his office and the accounting for all monies and property that may come into their hands or under their control. The cost of the bond shall be paid by the special taxing district.

(F) Salaries, Per Diem, and Reimbursement of Expenses

(1) A Commissioner who does not otherwise hold a lucrative office for the purposes of *Article 2, Section 9 of the Indiana Constitution* may receive:

(a) A salary; or

(b) A per diem;

(c) Is entitled to reimbursement for expenses necessarily incurred in the performance of the redevelopment commissioner's duties.

(2) A non-voting advisor is not entitled to a salary, per diem, or reimbursement of expenses.

(G) Removal

(1) Spencer Town Board may remove a commissioner from office at any time.

(2) Removal may be with or without cause.

(Ord. 2014-08, passed 11/7/2014)

§156.05 MEETINGS

(A) Election of Officers:

(1) Not later than thirty (30) days after the appointment of the commissioners the Redevelopment Commission shall hold a meeting for the purposes of organization. Thereafter, the Commission must hold at least one (1) annual meeting on the first day of January, that is not a Saturday, Sunday, or legal holiday for the election of a president, a vice president, and a secretary.

(2) The Redevelopment Commission may also appoint a Treasurer, who need not be a commissioner or member of the redevelopment commission. The Treasurer may be compensated. The Treasurer shall be responsible for the administration, investment, and disbursement of all funds and accounts of the Redevelopment Commission in accordance with the requirements of IC 36-7-14 et seq. However, the Treasurer may not perform any duties of the fiscal officer or any other officer of Owen County that are prescribed by IC 36-7-14-24 or by any provisions that pertain to the issuance and sale of bonds, notes, or warrants of the special taxing district.

(B) Rules and Bylaws

(1) The Redevelopment Commission may adopt the rules and bylaws it considers necessary for the proper conduct of its proceedings, the carrying out of its duties, and the safeguarding of the money and property placed in its custody by IC 36-7-14 et seq.

(C) Meetings

(1) At the annual meeting (referenced above) the commission by resolution or in accordance with its rules and bylaws, prescribe the date and manner of notice of other regular or special meetings.

(2) All meetings of the Redevelopment Commission shall be held in accordance with Indiana's Open Door Law.

(D) Quorum

(1) Three (3) of the redevelopment commissions commissioners constitute a quorum, and the concurrence of three (3) members is necessary to authorize any action.

(Ord. 2014-08, passed 11/7/2014)

§156.06 CONFLICT OF INTEREST

A Redevelopment Commissioner or a non-voting advisor appointed under this Ordinance or under the provisions of IC 36-7-14-6.1 may not have a pecuniary interest in any contract, employment, purchase, or sale made under this chapter. However, any property required for redevelopment purposes in which a commissioner or non-voting advisor has a pecuniary interest may be acquired, but only by give or condemnation.
(Ord. 2014-08, passed 11/7/2014)

§156.07 DUTIES

The duties of the Redevelopment Commission are governed by the provisions of IC 36-7-14 *et seq.* and any amendments thereto.
(Ord. 2014-08, passed 11/7/2014)

§156.08 POWERS

The powers of the Redevelopment Commission are governed by the provisions of IC 36-7-14 *et seq.* and any amendments thereto.
(Ord. 2014-08, passed 11/7/2014)

§156.09 REPORTING REQUIREMENTS

(A) Within thirty (30) days after the close of the calendar year, the redevelopment commissioners shall file with the Spencer Town Board a report setting out their activities during the preceding calendar year. The report shall include the following:
    (1) The names of the then qualified and acting commissioners, including any removed from office;
    (2) The names of the officers;
    (3) The number of regular employees, if any, and their fixed salaries and compensation;
    (4) The amount of expenditures made during the preceding year and there general purpose;
    (5) The amount of funds on hand at the close of the calendar year
    (6) Any other information necessary to disclose the activities of the commissioners and the results obtained.

(Ord. 2014-08, passed 11/7/2014)

TABLE OF SPECIAL ORDINANCES

Table

I. ANNEXATIONS
II. CONTRACTS AND AGREEMENTS
III. FUNDS
IV. STREET AND ALLEY VACATIONS
V. PLANNING AND ZONING
VI. PROCLAMATIONS
VII. TAX ABATEMENTS
VIII. DEVELOPMENT AREAS; ECONOMIC DEVELOPMENT AREAS

TABLE I: ANNEXATIONS

Ord./Res. No.	*Date Passed*	*Description*
1972-2	9-5-1972	Kay's addition
1976-1	1-20-1976	Sweet Owen Manor addition
	- -1977	Cooper Commons and fairgrounds
1981-3	10-19-1981	Williamsburg apartment complex
Res. 1985-2	6-8-1983	Fletcher Estate
1985-12	12-2-1985	Parts of Section 19
1988-4, 5, 6	4-4-1988	Parts of Section 20; Casida Property
1988-5	4-4-1988	Parts of Section 20; Casida Property
1988-6	6-8-1988	Parts of Section 20; Casida Property
1988-9	8-22-1988	Part of Section 21; Patriot Inns
1989-1	5-1-1989	Peter Withem's Industrial Park
1997-6	7-21-1997	Peter Withem's Industrial Park
1990-5	4-18-1990	Unnamed portion of land
1991-1	1-7-1991	James Vance and Sally Vance Property; (BSC Expansion)
Res. 2006-1	6-19-2006	Annex an area west of current town limits
Res. 2006-1	7-3-2006	Annex an area west of current town limits
Res. 2008-3	10-20-2008	Adoption of Fiscal Plan for Annexation
Ord. 2009-3	2-2-2009	Annex Rostone Building and Green Briar Apt Annex Williamsburg Apts, Annex Owen County Fairgrounds, Annex White Oak Estate Annex Pines Apartments

TABLE II: CONTRACTS AND AGREEMENTS

Ord./Res. No.	*Date Passed*	*Description*
	-11-2-1998	Contract for services between town and Spencer-Owen County Economic Development Corporation
	-6-1-1999	Inter-local cooperation agreement for purchase and operation of truck for recycling center
	-4-2-2001	Legal services agreement between town and Richard W. Lorenz
	-5-21-2001	Rental agreement
	-3-17-2003	Uniform service agreement to reimburse town; costs associated with training program certifications
	-10-20-2003	Legal services agreement between town and Richard W. Lorenz
	-- -2004	Contract between town and Spencer Volunteer Firefighters, Inc.
	-3-1-2004	Contract between town and Spencer Volunteer Firefighters, Inc.
	-5-17-2004	Agreement between owner and engineer; GRW Engineers, Inc.
	-5-28-2004	Agreement between town and Spencer Senior Citizens Center
	-9-20-2004	Contract modification 1 between owner and engineer; GRW Engineers, Inc.
	-3-11-2005	Contract between town and Owen Valley Volunteer Firefighters, Inc.
Res. 2	9-19-2005	Town to enter contract with Mega Systems and Services, Inc.
	-12-19-2005	Contract between town and Owen Valley Volunteer Firefighters, Inc.
	-12-19-2005	Contract for grant writing and administrative services between town and Community Concepts, Inc.
	-2-6-2006	Contract modification 2 between owner and

		engineer; GRW Engineers, Inc.
	-9-18-2006	Contract modification 3 between owner and engineer; GRW Engineers, Inc.
Res. 2007-4	5-7-2007	Contact for payment of fire hydrant rental fees
	-5-7-2007	Agreement to pay fire hydrant rental
	-5-21-2007	Agreement between Owen County Board of Commissioners and Spencer Town Council
Ord. 2008-04	6-16-2008	Enaction of Code of Code of Ordinances revising, amending, restating, and codifying and compliled certain existing general ordinances of the policital subdivision dealing with subjects embraced in such code of ordinances
Ord. 2008-5	8-4-2008	Authorizing Owen Valley Fire Territory to purchase Pumper Tanker Truck
Res. 2009-2	1-21-2009	Authorization for use of forms
Res. 2009-5	3-16-2009	Authorization to Apply for SRF Loan
Res. 2009-9	5-18-2009	Acceptance of Donation of Real Estate
Res. 2009-9	7-6-2009	Authorizing Application Submission to the Indiana Office of Community and Rural Affairs
Res. 2009-10	6-1-2009	Agreement for Attorney Fees associated with collection of ordinance violations
	10-5-2009	Disaster Recover 1 Grant
	10-19-2009	Disaster Recovery 2 Grant
Ord. 2009-19	11/16/2009	Authorizing the issuance of sewage works revenue bonds
Res. 2009-15	12/7/2009	Allowance of transfer of sick/vacation days to another employee
Res. 2009-13	11-16-2009	Authorization of Application Submission and Local Match Commitment
Res. 2009-14	11-16-2009	Authorizing Number of People to receive monetary assistance from grant
Res. 2006-16	12-7-2009	Supporting Engineers Bid Recommendation For Award of 2009 Sewer Rehab Project

Res. 2010-1	1-20-2010	Adopted Owen County Multi-Hazard Mitigation Plan dated May 19, 2009
Res. 2010-2	3-15-10	Local Resolution Approving Plan submitted by Southern Indiana Development Commission
Res. 2010-3	4-5-2010	Adoption of Sewer Adjustment Policy
Res. 2010-4	4-19-2010	Authorizing Submittal of Disaster Application to address the town's stormwater drainage system to the Indiana Office of Community and Rural Affairs
Res. 2010-5	5-3-2010	State of Indiana Offer to Purchase permanent right-of-way of 0.131 acres and temporary easement of 0.025 acres
Res. 2011-1	3-21-2011	Indiana Housing & Community Development Authority Community Development Block Grant-Disaster Relief 1
Res. 2011-3	4-18-2011	Establishing a Town Election Board to Conduct 2011 Municipal Election
Res. 2011-10	9-19-2011	Citizens Participation Report
Res. 2012-01	3-5-2012	Resolution authorizing Town of Spencer to act as co-applicants and designating a lead applicant of the Economic Development Administration Public Works Application and Resultant Grant.
Res. 2015-01	3-19-2012	Resolution authorizing the transfer of title of a 2007 Dodge Charger found to be surplus
	8-6-2012	Inter-local Agreement between Town of Spencer, Owen County Board of Commissioners, and the Owen County Redevelopment Commissioner for the extension of sewer services to the SR 43 Corridor.
Res. 2012-6	12-26-2012	Adoption of the Americans with Disabilities Act Noticing Requirements
Res. 2013-2	1-22-2013	Resolution authorizing application submission and local match

		commitment of the CDBG Planning Grant Application to the Indiana Office of Community and Rural Affairs
	2-19-2013	2013 Professional Services Agreement between the Town of Spencer and the Owen County Chamber of Commerce and Economic Development Corporation
Res. 2013-6	5-20-2013	Resolution authorizing application submission to Indiana Office of Community and Rural Affairs
	12-16-2013	2014 Professional Services Agreement between the Town of Spencer and the Owen County Chamber of Commerce and Economic Development Corporation.
	1-24-2014	Operational Cost Control Management Program Agreement between AME Group and Town of Spencer
	2-3-2014	Contract between Payment Services Network and the Town of Spencer
	3-17-2014	Inter-local Agreement between Town of Spencer, Owen County, and Spencer-Owen Community Schools with regard to the School Resource Officer.
	5-5-2014	Addendum to AME Operational Cost Control Program Agreement
	5-5-2014	Agreement for property use and maintenance between Town of Spencer and Owen County Fair Association.
	6-2-2014	Joint and Mutual Easement Agreement between Town of Spencer and BBP Water Corporation in regard to Vandalia Street.
	8-4-2014	Project Coordination Contract DES 1400858 between Indiana Department of Transportation and Town of Spencer in regard to the sidewalk project.
2014-6	10-6-2014	Resolution Authorizing the Submittal of the

		CDBG Planning Grant Application and Match Commitment
	12-15-2014	Agreement between Owen County Economic Development and the Town of Spencer
	12-15-2014	McAllister Machinery Service Agreement Renewal
	2-15-2015	Contract modification between GRW and Town of Spencer re: lighting project
	2-15-2015	Consulting Contract between GRW and Town of Spencer re: Safe Routes to school Project
2015-01	2-17-2015	Establishing a Town Election Board to conduct the 2015 election
	2-17-2015	Consulting Agreement between SDG and the Town of Spencer for Downtown Planning Grant
	2-17-2015	Contract between SIDC and Town of Spencer for the Downtown Planning Grant
	7-20-2015	Agreement between State of Indiana and Town of Spencer for the Lighting Project
2015-09	11-16-2015	Approval of Downtown Revitalization Plan
2016-09	10-6-2016	Authorizing Application Submission for Downtown renovations
	12-19-2016	Agreement between Owen County Economic Development and the Town of Spencer
	1-17-17	Agreement for Financial and Accounting Consultation Services
	2-6-2017	AME Group Contract for IT services
	2-21-2017	Southern Indiana Development Commission Agreement for Grant Services
	12-18-2017	Agreement between Owen County Economic Development and the Town of Spencer

2016-11	10-3-2016	Adoption of the Town of Spencer Hazard Mitigation Plan
2017-08	6-5-2017	Adoption of the State of Indiana Deferred Compensation Plan, START 457(b)
2018-03	5-7-2018	Joint Resolution authorizing the transfer of title of a vehicle found to be surplus to the Town of Worthington
2018-07	8-6-2018	Establishment of Repair and Replacement of Sidewalks Program

TABLE III: FUNDS

Ord./Res. No.	*Date Passed*	*Description*
1993-3	7-19-1993	Establishing a Cumulative Capital Development Fund
1998-6	11-16-1998	Street Cut Permits and Street Cut Repair Funds
Res. 2004-1	1-19-2004	Rainy Day Fund
Res.	5-20-2002	Drug Education Fund
2005-4	10-17-2005	Police Department Public Relations Fund
2005-5	10-17-2005	Reserve Police Unit Fund
2005-6	10-17-2005	Spencer Police Training and Equipment Fund
Res. 2008-1	12-29-2008	Encumber funds from Capital Outley:Sidewalks
Res. 2008-2	10-6-2008	General Fund Uses for promotion of business
Ord. 2008-2	12-29-2008	Transfer funds within General Fund
	10-6-2009	Salary Ordinance for 2009
Res. 2008-1	7-21-2008	Use of Riverboat Funds
Ord. 2008-1	12-29-2008	Transfer funds within General Fund
Ord. 2008-1	12-29-2008	Transfer Funds within General Fund
Ord. 2009-10	6-1-2009	Transfer Funds from Ordinance Violations to Local Law Enforcement Continuing Education Fund
Ord. 2009-11	6-1-2009	Transfer Funds from Deferral Program or Pretrial Diversion Program to Police Training Fund
Ord. 2009-15	8-17-2009	Transfer funds from General Fund to Clothing Allowance Fund and Equipment Fund
	12-17-2009	Salary Ordinance for 2010
Ord. 2009-3	1-4-2010	Transfer Ordinance
Ord. 2010-2	10-18-2010	Appropriation of $35,000 from the Economic Development Income Tax (EDIT) Fund for the

		Paving of the Town of Spencer Roadways
Ord. 2010-3	10-18-2010	Appropriation of $5,000 from the Economic Development Income Tax (EDIT) Fund for the Holiday Banners
Ord. 2010-4	10-18-2010	Appropriation of $3,200 from the Economic Development Income Tax (EDIT) Fund for the Replacement of Trees
Ord. 2010-5	12-20-2010	Salary Ordinance 2011
Ord. 2010-6	12-31-2010	Encumbrance of funds from 101 – Bituminous
Ord. 20107	12-31-2010	Encumbrance of funds for Sidewalk repair
Res. 2011-6	11-21-2011	Longevity Pay Resolution
Ord. 2012-5	12-17-2012	Salary Ordinance for 2013
Ord. 2013-14	12-16-2013	Transfer from Rainy Day to K-9 Fund
Ord. 2013-15	12-16-2013	Transfer from Cut Repair Fund to General Fund
Ord. 2013-16	12-16-2013	Transfer from CCI Fund to General Fund
Ord. 2013-17	12-16-2013	Transfer from CCI Fund to General Fund
	12-16-2013	Salary Ordinance for 2041
2014-5	9-2-2014	Ordinance for Appropriations and Tax Rate
2014-9	12-29-2014	Encumber funds for General Fund
2014-10	12-29-2014	Encumber funds for OVFT General Fund
2014-11	12-29-2014	Transfer funds from Street Cut Repair to General
2014-12	12-29-2014	2015 Salary Ordinance
	7-20-2015	Amended 2015 Salary Ordinance
2015-07	9-21-2015	Ordinance for Appropriations and Tax Rates
2015-10	12-7-2015	Transfer funds from Rainy Day to MVH Fund
2015-12	12-21-2015	2016 Salary Ordinance
2016-04	6-16-2016	Resolution Establishing a Fund for Special LOIT Distribution
2016-05	7-5-2016	Re-establishing the Cumulative Capital

		Development Fund
2016-07	10-3-2016	Appropriations and Tax Rates
2016-08	10-24-2016	Establishing a Rainy Day Fund
	12-19-2016	2017 Salary Ordinance
2017-02	3-20-2017	Additional Appropriations from EDIT fund
2017-03	4-17-2017	Additional Appropriations from EDIT Fund
2017-07	6-19-017	Re-establishing a Cumulative Capital Development Fund
2017-15	10-16-2017	Appropriations and Tax Rates
	12-4-2017	2018 Salary Ordinance
2018-01	4-2-2018	Establishing Cumulative Capital Fund
2018-02	4-2-2018	Establishing Fire Protection Territory Equipment Replacement Fund
2018-06	6-18-2018	Additional Appropriations Resolution EDIT Fund to Professional Services, Downtown Streetscape and Other
2018-08	8-6-2018	Resolution to Reduce Appropriations for Rainy Day and MVH Funds
2018-11	9-4-2018	Appropriations and Tax Rates

TABLE IV: STREET AND ALLEY VACATIONS

Ord./Res.	*Date Passed*	*Description*
	-- -	Petition by JFV, LLC, requesting vacation of alley
	-- -	Petition to vacate alleys; AutoVest LLC
2000-2	3-6-2000	Vacation of alley
2000-3	10-2-2000	Vacation of 100 feet of the west end of the alley located between New Jersey and Wisconsin Streets
	-4-26-2001	Petition for vacation of alley
Res. -	12-5-2005	Vacating alleyway south of Clay Street
Ord. 2008-1	5-5-2008	Vacating the unimproved portion of Morgan Street west of Delaware Street
Ord. 2008-1	5-5-2008	Vacating alleyway South of unimproved portion of Morgan Street and West of Delaware Street
Ord. 2014-7	10-20-2014	Vacated All of the alleyway that lies to the west of Charles Cochran parcel no. 60-10-21-300-400.258-028 (currently houses the Medical Services Building) and lying to the east of the Charles Cochran parcel no. 60-10-21-300-400-250-028 (currently used as a parking area), All of the alleyway that lies to the west of Leonard White parcel no. 60-10-20-400-400.555-028 (currently houses the Subway and License Branch Offices) and lying to the east of the Kooshard Property LLC parcel no. 60-10-20-400400.556-028 (currently houses Circle K East), All of the alleyway that lies to the west of Crtm Realty parcel no. 60-10-20-400-400.575-028 (currently houses the Spencer Ford Car Lot) and lying to the east of the Richard Travis Jr. & Patricia Louis Dotterer parcel no. 60-10-20-400400.576-028 (currently houses Valley Optical) and William J. and Lillian A. Pursell parcel no. 60-10-20-400-400.577028, All of the alleyway that lies to the west of Parrish, Arthur Stephen II & Alice R parcel no. 60-10-20-400-400.435-028 and 60-10-20-400-400.437-028 (currently houses the West Parrish & Pedigo Funeral Home and annex thereto) and lying to the east of the Parrish,

Arthur Stephen II and Alice R. parcel no. 60-10-20-400-400.444-028 (mostly vacant lot), and All of the alleyway that lies to the west of Elena Lewis parcel no. 60-10-20-400-400.345-028 (currently houses the Lewis Service Center) and lying to the east of the Scott & Deborah A. Newforth. parcel no. 60-10-20-400-400.344028 (Oalden Jewelers).

TABLE V: PLANNING AND ZONING

Ord./Res.	*Date Passed*	*Description*
	2000-4	10-2-2000 Rezone property known as lots 35, 36, 43 and 44
	10-24-2000	Owen Valley Sports Complex Variance from hard surface parking requirements
	10-24-2000	Owen Valley Sports Complex variance from R-1 zoning requirement
	3-27-2001	Neufeld Investments LLP variance from off-street parking requirements for the West ½ of lot 133
	8-28-2001	rezoning from R-1 to BLM-1 of property bounded by St Rd 46 on the North, Spencer Owen Community Schools of the East and South, and The Town of Spencer on the West
	8-28-2001	Rezone from R-1 to BLM-1 property bounded by Crane Avenue, Franklin Street, Fairview Avenue and St Rd 46
	9-25-2001	Variance to Hamilton Center, Inc. from R-1 designation to BLM-1 of the property located at the common address of 909 West Hillside Avenue
	4-23-2002	A & M Real Estate Partnership variance from R-1 to BLM-1 for 206 S Main Street
	6-24-2003	B & J Rental Properties variance from R-1 to BLM-1 for vacant lot west of Melicks Florist and South of Franklin Street
	7-22-2003	Reclassification from Residential to Business Commercial
	9-23-2003	Rezone from R-1 to BLM-1 the area on the south side of Morgan Street from the alley East of Fletcher Avenue on the West, Morgan on the North and Fairview on the East and Franklin on the South and all properties on both sides of North Fletcher Avenue from North Street on both sides of the road up to Lovers Lane and the South side of Brookside Drive.
	11-23-2004	BB-P Water variance from R-1 to BLM-1 for

		256 West Clay Street, 439 South West Street, and 405 South West Street
	9-27-2005	Spencer Evening World variance from R-1 to BLM-1 for 257 S Washington Street
2006-01	10-24-2006	Dr. Charles Cochran variance from setback regulations for 159 N Fletcher Avenue
	11-27-2007	Rezone from R-1 to BLM-1 505 W Market Street
	8-26-2008	Designation of R-1 given to recently annexed property known as the Dunigan Property
	8-26-2008	Designation of R-2 given to recently annexed property known as the Childs Property
	8-26-2008	Designation of A-1 given to recently annexed property known as the East side of the fairgrounds
	8-26-2008	Designation of BLM-1 given to recently annexed property known as the Rostone Property
	8-26-2008	Designation of R-1 given to recently annexed property known as Greenbrier Apartments
	8-26-2008	Designation of A-1 given to recently annexed property east of fairgrounds to include but not limited to Kay Property which runs to the river on the east and south sides and to St Rd 46 on the North side.
2009-01	6-30-2009	Owen County Fair Association variance from handicap parking requirements for 379 S East Street
	9-9-2009	Rezone 283 N Beem Street from R-1 to R-2
2010-6	9-7-2010	Lot 8 in Gallups Addition split into two separate sections to be known as Lot 8A and Lot 8B
	10-13-2009	Approval of site plan for parking area at 156 E Franklin Street
	2-24-2011	Jerry & Elena Lewis design variance for 303 W Morgan Street
2011-9	8-1-2011	Rezone 389 N Fletcher Avenue (aka Lot 38 and 39 in Wark's Addition) from R-1 to BLM

		1
2011-1	11-22-11	Leonard White variance from setback regulations and parking regulations for 389 N Fletcher
2012-01	5-29-2012	Kathy Stivers variance request for 88 N West Street
	9-4-2012	Approval of Al & Linda Childs Subdivision
2013-8	6-3-2013	Rezone from Residential to BLM-1 for property located at W Clay Street, Spencer bearing parcel no. 60-10-29-100-600.039-028 and 60-10-29-100-600.046-028.
	10-8-2013	Approval of re-plat of lots 6, 7, and 8 in Thornridge Subdivision
2013-11	11-4-2013	Rezone from Residential to BLM-1 for property located at 850 W Hillside Avenue
2013-12	11-4-2013	Rezone from Residential to BLM-1 for property located at the end of West Clay Street, 467 S West Street, 405 S West Street, 439 S West Street, and 256 W Clay Street.
2013-13	11-4-2013	Rezone from Residential to BLM-1 for property located at 891 W Indiana Avenue and 870 W Hillside Avenue
2013-14	11-4-2013	Rezone from Residential to BLM-1 for property located at 261 W Clay Street and W Clay Street
	4-7-2014	Approval of re-lot of lot 8 in White Oaks Estates
2014-02	2-18-2014	Approval of the Comprehensive Master Park Plan
	7-3-2014	Resolution to Rezone Rostone from Industrial to BLM-1
	12-4-2018	Zoning change from R2 to BLM1 for property at 565 Fifth Street

5-21-2018	Rezone of property located at 5th avenue from Agriculture to BLM1
9-4-2018	Rezone of Spencer lots 37 and 38 (World Arts) from Residential to BLM-1

TABLE VI: PROCLAMATIONS

2014-1	3-17-2014	Proclaiming the Month of April 2014 as the "Month of the Military Child"
2014-2	3-17-2014	Proclaiming April 1, 2014 as "National Service Recognition Day"
2014-3	4-21-2014	Proclaiming the Month of May 2014 as "Huntington's Disease Awareness Month"
2014-4	5-5-2014	Proclaiming May 5 through 9, 2014 as "Chamber of Commerce Week"
	9-2-2014	Proclaiming October 23 through 31 as "Red Ribbon Week"
	4-20-2015	Proclaiming "Chamber of Commerce week"
	5-4-2015	Proclaiming "Local Volunteer Week" in honor of Mary Wheeler
	4-18-2016	Proclaiming "Honor Guard"
	4-18-2016	Proclaiming "Celebrate Arbor Day"
	12-11-2016	Proclaiming December 11, 2016 as Indiana Statehood Day and Bicentennial
	1-2-2018	Declaring January 6, 2018 as "Dick Dyar Day"

TABLE VII: TAX ABATEMENTS

Res. 2008-1	5-5-2009	Granting of Tax Abatement for Vance Products d/b/a Cook Urological
	10-6-2008	Vance Products d/b/a Cook Urological Incorporated Tax Abatement Agreement
Res. 2010-8	12-6-2010	Resolution Granting a Tax Abatement for Personal Property for Boston Scientific Corporation
2015-06	8-17-2015	Resolution Approving Tax Abatement Agreement for Brown-Forman Corp
2018-09	8-6-2018	Resolution approving a Tax Abatement for Real and Personal Property for Boston Scientific
	8-20-2018	Memorandum of Understanding between Boston Scientific, TBH, Inc, and the Town of Spencer re: Tax Abatement

TABLE VIII: DEVELOPMENT AREAS; ECONOMIC DEVELOPMENT AREAS

2015-08	8-26-2018	Confirmatory Resolution Approving the Economic Development Plan and Area for the Downtown Development District
2016-01	2-16-2016	Establishing Municipal Riverfront Development District
2016-03	11-14-2016	Confirmatory Resolution Approving the Economic Development Plan and Area for the Morgan Street Development District
2017-02	9-20-2017	Confirmatory Resolution Approving the Economic Amended Development Plan and Area for the Amended Downtown Development District

INDEX

TITLE I: GENERAL PROVISIONS **4**

CHAPTER 10: GENERAL PROVISIONS 5
§ 10.01 TITLE OF CODE. 5
§ 10.02 INTERPRETATION. 5
§ 10.03 APPLICATION TO FUTURE ORDINANCES. 5
§ 10.04 CONSTRUCTION OF CODE. 6
§ 10.05 RULES OF INTERPRETATION; DEFINITIONS. 6
§ 10.06 SEVERABILITY 7
§ 10.07 REFERENCE TO OTHER SECTIONS. 8
§ 10.09 ERRORS AND OMISSIONS. 9
§ 10.10 REASONABLE TIME. 9
§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION. 9
§ 10.12 LIMITATION PERIODS. 9
§ 10.13 ORDINANCES UNAFFECTED. 10
§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE. 10
§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES. 10
§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES. 11
§ 10.99 GENERAL PENALTY. 11
CHAPTER 11: TOWN STANDARDS 12
§ 11.01 TOWN BOUNDARIES. 12
§ 11.02 DIVISIONS OF THE TOWN. 17
§ 11.03 TOWN SEAL. 17

TITLE III: ADMINISTRATION **19**

CHAPTER 30: TOWN OFFICIALS 20
§ 30.01 PURPOSE. 21
§ 30.02 GENERAL REGULATIONS FOR TOWN OFFICIALS. 21
§ 30.03 OTHER TOWN OFFICIALS. 21
§ 30.15 ELECTION AND TERM OF OFFICE. 22
§ 30.16 OATH OF OFFICE. 22
§ 30.18 TOWN COUNCIL MEETINGS. 22
§ 30.19 QUORUM. 22

§ 30.20 ROBERT'S RULES OF ORDER. 22
§ 30.21 ADDRESSING COUNCIL MEETINGS. 23
§ 30.22 ORDINANCES AND RESOLUTIONS. 23
§ 30.23 RESCINDED ACTIONS. 23
§ 30.24 POWERS AND DUTIES. 23
§ 30.40 ELECTION. 23
§ 30.41 APPOINTMENT OF DEPUTY CLERK-TREASURER. 23
§ 30.42 POWERS AND DUTIES. 24
§ 30.43 BOOKS AND RECORDS. 24
§ 30.60 DESIGNATION. 25
§ 30.61 TERMS OF OFFICE. 25
§ 30.62 COMPENSATION. 25
§ 30.63 POWERS AND DUTIES. 25
§ 30.64 SERVICE OF SUMMONS. 26
§ 30.65 THE TOWN ATTORNEY. 26
CHAPTER 31: TOWN ORGANIZATIONS 27
§ 31.01 MEMBERSHIP. 27
§ 31.02 MEETINGS. 28
§ 31.03 DUTIES AND POWERS. 28
§ 31.20 PURPOSE. 29
§ 31.21 DEFINITIONS. 29
§ 31.22 MEMBERSHIP OF THE COMMISSION. 29
§ 31.23 ORGANIZATION OF THE COMMISSION. 30
§ 31.24 POWERS AND DUTIES. 30
§ 31.25 THE SPENCER MASTER PLAN. 31
§ 31.26 AMENDMENTS OR REJECTIONS TO THE MASTER PLAN. 32
CHAPTER 32: TOWN DEPARTMENTS 34
§ 32.01 POLICE DEPARTMENT. 35
§ 32.02 ORGANIZATION. 35
§ 32.03 APPOINTMENTS. 35
§ 32.04 COMPENSATION. 35
§ 32.05 CONDUCT OF OFFICERS. 35
§ 32.06 RULES AND REGULATIONS. 35

§ 32.07 POWERS AND DUTIES. 36
§ 32.08 USE OF EQUIPMENT. 36
§ 32.09 LIABILITIES. 36
§ 32.10 RECORDS AND REPORTS. 37
§ 32.11 CUSTODY AND PROPERTY. 37
§ 32.12 POLICE RESERVES. 37
§ 32.13 ADMINISTRATIVE/SUSPENSIONS ADVISORY BOARD. 38
§ 32.14 HANDGUN APPLICATION FEES. 39
§ 32.15 HANDGUN TRANSFER APPLICATION FEES. 39
§ 32.16 VEHICLE INSPECTION FEES. 39
§ 32.18 RETAINAGE OF SERVICE WEAPON. 40
§ 32.30 STREET DEPARTMENT CREATED. 40
§ 32.31 APPOINTMENTS. 40
§ 32.32 COMPENSATION. 40
§ 32.33 POWERS AND DUTIES. 41
§ 32.34 USE OF EQUIPMENT. 41
§ 32.35 RECORDS AND REPORTS. 41
§ 32.50 SEWAGE DEPARTMENT CREATED. 41
§ 32.51 APPOINTMENTS. 41
§ 32.52 COMPENSATION. 42
§ 32.53 POWERS AND DUTIES. 42
§ 32.54 USE OF EQUIPMENT. 42
§ 32.55 RECORDS AND REPORTS. 42
CHAPTER 33: PURCHASING PROCEDURES 43
§ 33.01 DEFINITIONS 44
§ 33.02 ESTABLISHMENT OF PURCHASING AGENCY 46
§ 33.03 ESTABLISHMENT OF PURCHASING AGENT 46
§ 33.04 PURCHASING AGENT-DUTIES AND RESPONSIBLITIES 46
§ 33.20 POLICIES FOR PURCHASES UNDER $2500 47
§ 33.21 POLICIES FOR PURCHASES LESS THAN $50,000-REQUEST FOR PROPOSALS 47
§ 33.22 POLICIES FOR PURCHASES OVER $50,000, BUT LESS THAN $150,000-INVITATION 48
§ 33.23 SPECIAL PURCHASE PROCEDURES 48

§ 33.24 POLICES FOR PURCHASES OVER $150,000-INVITATION TO BID 49
§ 33.25 PURCHASING PRFERENCES 49
§ 33.40 POLICES FOR PUBLIC WORK PROJECTS EXCEEDING $150,000 50
§ 33.41 POLICES FOR PUBLIC WORK PROJECTS LESS THAN $150,000 50
§ 33.42 ALTERNATE PROCEDURES FOR PROJECTS COSTING LESS THAN $250,000; PERFORMANCE OF PUBLIC WORK BY OWN WORKFORCE 51
§ 33.43 FUNDS NOT APPROPRIATED OR NOT AVAILABLE, CANCELLATION OF 51
§ 33.44 CONTRACT FOR PETROLEUM PRODUCTS 51
§ 33.45 CONTRACTS FOR SAND, GRAVEL, ASPHALT, PAVING MATERIALS OR . 52
§ 33.46 BOND OR CERTIFIED CHECK; REQUIREMENTS 52
§ 33.47 APPROVAL OF PLANS AND SPECIFICATIONS BY LICENSED ARCHITECT OR 52
§ 33.48 EMERGENCIES; CONTRACTS BY INVITATION 52
§ 33.49 DIVIDING COST OF A SINGLE PUBLIC WORK PROJECT INTO TWO OR MORE PROJECTS; PROHIBITION 53
§ 33.60 NOTICE OF REQUIREMENT FOR PROFESSIONAL SERVICES 53
§ 33.61 BASIS FOR CONTRACTS; COMPENSATION 53
§ 33.62 LIMITATIONS OF EMPLOYMENT OF CONSTRUCTION MANAGERS; CONTRACTS WITH CONSTRUCTION MANAGERS PROHIBITED 53
§ 33.80 DUTIES OF OFFERORS OR PROSPECTIVE CONTRACTORS 54
§33.81 DISQUALIFICATION OF CONTRACTORS DEALING WITH THE GOVERNMENT OF IRAN 54
§33.82 CONTRATOR REQUIREMENTS; ANTIDISCRIMINATION PROVISIONS 55
§33.83 DRUG TESTING OF EMPLOYEES OF PUBLIC WORKS CONTRACTS 55
§33.84 CONTRACTORS WITH PUBLIC CONTRACT REQUIRED TO USE E-VERIFY PROGRAM 55
§33.85 CONTRACTS INVOLVING STEEL PRODUCTS 55
§33.86 PUBLICATION OF NOTICES 56
§33.87 CANCELLATION OF SOLICIATION; REJECTION OF OFFER 56
§33.88 OFFERS OPENED AFTER TIME STATED IN SOLICITATION 56
CHAPTER 34: FINANCES 57
§ 34.01 ISSUANCE, USE AND CONTROL OF CREDIT CARDS BY TOWN EMPLOYEES. 57
§ 34.02 TOWN DEPARTMENTS AND AUTHORITY TO SPEND A CERTAIN AMOUNT. . 58
§34.03 MILEAGE REIMBURSEMENT RATE 58
§34.04 INTERNAL CONTROL STANDARDS 58

§34.05 MATERIALITY THRESHOLD 58
CHAPTER 35: MISCELLANEOUS PROVISIONS 59
§ 35.01 POLICE ACCIDENT FEE. 59
§ 35.02 EVENT REGISTRATION FORM. 59
§ 35.03 COMPLAINT FORM. 59
35.04 DISHONORED CHECK PROCESSING FEE 59
CHAPTER 36: PERSONNEL POLICY 60
§ 36.01 PERSONNEL POLICY; ADOPTED BY REFERENCE. 60

TITLE V: PUBLIC WORKS 61

CHAPTER 50: SEWER 62
§ 50.001 PURPOSE. 63
§ 50.002 DEFINITIONS. 63
§ 50.003 POWERS AND DUTIES OF THE TOWN COUNCIL. 66
§ 50.004 STREAM POLLUTION PROHIBITED. 66
§ 50.005 CONNECTION TO SANITARY SEWER REQUIRED. 66
§ 50.006 INTERCEPTORS FOR GREASE, OIL AND SAND REQUIRED. 66
§ 50.007 PRELIMINARY SEWAGE TREATMENT FACILITIES. 67
§ 50.008 RIGHT OF ENTRY. 67
§ 50.009 PUBLIC WORKS, SEWER. 67
§ 50.025 ON-SITE DISPOSAL SYSTEM. 68
§ 50.026 UNLAWFUL DISCHARGES OF SEWAGE. 69
§ 50.027 DISCHARGES INTO PUBLIC SEWER SYSTEM. 70
§ 50.041 BUILDING SEWERS. 72
§ 50.056 BUILDING SEWERS. 72
§ 50.057 DAMAGES TO PUBLIC SEWERS. 74
§ 50.070 SAMPLING AND MEASUREMENT. 75
§ 50.071 SPECIAL AGREEMENTS. 75
§ 50.072 POWERS AND AUTHORITY OF INSPECTORS. 75
§ 50.087 MONTHLY SEWAGE RATES WITHIN AND OUTSIDE TOWN LIMITS. 76
§ 50.088 MULTIPLE WATER METERS AND SINGLE WATER METER. 77
§ 50.089 ADJUSTMENT; SEWER BILL AND SWIMMING POOL. 77
§ 50.090 BILLING AND COLLECTION. 80
§ 50.091 WASTE HAULER- CHARGES. 80

§ 50.999 PENALTY. 81
CHAPTER 51: GARBAGE 83
TITLE VII: TRAFFIC CODE 84
CHAPTER 70: GENERAL REGULATIONS 85
§ 70.01 PURPOSE. 85
§ 70.02 DEFINITIONS. 85
§ 70.03 POWERS OF TOWN COUNCIL. 86
§ 70.99 PENALTY. 87
CHAPTER 71: TRAFFIC CONTROL DEVICES 88
§ 71.01 SIGNS AND SIGNALS. 88
§ 71.02 SPECIFICATIONS. 88
§ 71.03 OBEDIENCE TO. 88
§ 71.04 TAMPERING WITH. 88
§ 71.05 IMITATING OR INTERFERING WITH. 88
§ 71.06 OFFICIALLY PRESUMED. 89
CHAPTER 72: GENERAL TRAFFIC REGULATIONS 90
§ 72.01 FOLLOWING EMERGENCY VEHICLES. 90
§ 72.02 FIREFIGHTING EQUIPMENT. 90
§ 72.03 OBSTRUCTING TRAFFIC. 91
§ 72.04 OBSTRUCTING VIEW AT CORNERS. 91
§ 72.05 EMERGING FROM ALLEY OR PRIVATE DRIVEWAY. 91
§ 72.07 BACKING. 91
§ 72.08 NO DRIVING ON STREETS CLOSED FOR REPAIRS. 91
§ 72.09 RAILROAD CROSSINGS. 91
§ 72.10 OPERATION OF NOISY VEHICLES UNLAWFUL. 92
§ 72.11 USE OF VEHICLE HORNS. 92
§ 72.12 UNLAWFUL RIDING ON VEHICLES. 92
§ 72.13 HUMAN AND ANIMAL PROPULSION AND DEVICES, AND THE LIKE. 92
§ 72.14 OPERATION OF HUMAN PROPULSION DEVICES, AND THE LIKE. 92
§ 72.15 OPERATION OF EMERGENCY VEHICLES. 92
§ 72.16 TRAVEL EMERGENCIES. 93
§ 72.17 PARADES AND OTHER USES OF TOWN STREETS. 95
§ 72.35 POLICE DEPARTMENT. 96

§ 72.36 IMPOUNDMENT OF VEHICLES. 96
§ 72.37 TRAFFIC CITATIONS. 96
§ 72.38 FAILURE TO OBEY CITATION. 97
§ 72.39 FIRE TERRITORY PERSONNEL. 97
§ 72.40 OBEDIENCE TO CROSSING GUARDS. 97
§ 72.41 REPORTING ACCIDENTS. 97
§ 72.42 DAMAGE TO PAVEMENTS. 97
§ 72.99 PENALTY 98
CHAPTER 73: SPORT BICYCLE EQUIPMENT AND OTHER RECREATIONAL VEHICLES. 99
§ 73.02 DEFINITIONS. 100
§ 73.03 VOLUNTARY REGISTRATION PROGRAM. 100
§ 73.04 IMPOUNDMENT OF SPORT BICYCLE EQUIPMENT. 100
§ 73.20 APPLICABILITY OF TRAFFIC REGULATIONS. 100
§ 73.21 OBEDIENCE TO SIGNALS. 101
§ 73.22 OPERATORS OF MOTORIZED SPORT BICYCLE EQUIPMENT. 101
§ 73.23 MOTORIZED SPORT BICYCLE EQUIPMENT PROHIBITED ON SIDEWALKS. 101
§ 73.24 PEDESTRIANS HAVE RIGHT-OF-WAY. 101
§ 73.25 RIDING ON SIDEWALKS IN BUSINESS AREAS PROHIBITED. 101
§ 73.26 EMERGING FROM ALLEY OR DRIVEWAY. 101
§ 73.27 RIDING ON AN SPORT BICYCLE EQUIPMENT. 101
§ 73.28 RIDING IN A GROUP. 102
§ 73.29 CLINGING TO VEHICLES. 102
§ 73.30 CARRYING ARTICLES WHILE RIDING. 102
§ 73.45 BRAKES. 102
§ 73.46 LIGHTS AND REFLECTORS. 102
§ 73.47 AUDIBLE SIGNALS. 102
§ 73.60 PARENTS/GUARDIANS. 103
§ 73.61 APPLICABILITY. 103
§ 73.99 PENALTY. 103
CHAPTER 74: PEDESTRIANS 104
§ 74.02 JAYWALKING. 104
CHAPTER 75: PARKING 105
§ 75.001 PURPOSE. 106
§ 75.003 VIOLATIONS. 107

§ 75.020 PARKING PROHIBITED AT ALL TIMES. 108
§ 75.021 ALLEY PARKING. 108
§ 75.022 OBSTRUCTIONS OF TRAFFIC. 108
§ 75.024 PARKING TEMPORARILY. 109
§ 75.025 VEHICLE TO OCCUPY SINGLE PARKING SPACE. 109
§ 75.026 PARKING FOR SALE, REPAIR OR FUTURE REPAIR. 109
§ 75.027 PRIVATE PARKING SIGNS. 109
§ 75.040 LARGE AND HEAVY VEHICLES. 110
§ 75.041 EQUIPMENT PARKING. 110
§ 75.042 PARKING FOR REPAIR; CONSTRUCTION WORK. 110
§ 75.060 USE OF ALLEYS, OFF-STREET AND LOADING ZONES. 110
§ 75.061 TRUCK LOADING; UNLOADING IN METERED ZONES. 111
§ 75.062 SPECIAL TRUCK PARKING. 111
§ 75.080 PARALLEL PARKING. 111
§ 75.081 ANGLE PARKING. 111
§ 75.095 NO PARKING ZONES. 111
§ 75.096 LIMITED PARKING ZONES. 112
§ 75.097 LOADING ZONES. 112
§ 75.098 BUS ZONES. 112
§ 75.099 NO TRUCK OR CAMPER PARKING ZONES. 113
§ 75.100 HANDICAP PARKING 113
§ 75.115 DECLARATION OF SNOW EMERGENCY. 113
§ 75.116 PARKING MAY BE BANNED. 113
§ 75.117 REMOVAL OF PARKED VEHICLES. 113
§ 75.131 DESIGNATION OF PARKING SPACES. 114
§ 75.132 INSTALLATION OF PARKING METERS. 114
§ 75.133 PERMITS FOR PARKING IN METERED SPACES. 114
§ 75.134 USE OF FUNDS. 115
§ 75.999 PENALTY. 115
CHAPTER 76: TRAFFIC SCHEDULES 116
SCHEDULE I: STATE SPEED LIMITS. 117
SCHEDULE II: SCHOOL SPEED ZONES. 119
SCHEDULE III: TRUCK ROUTES. 120

SCHEDULE IV: STOP INTERSECTIONS. 121
SCHEDULE V: MULTIPLE STOP INTERSECTIONS. 126
SCHEDULE VI: YIELD INTERSECTIONS. 127
SCHEDULE VII: SIGNALIZED INTERSECTIONS. 128
SCHEDULE VIII: ONE WAY STREETS AND ALLEYS 129
SCHEDULE IX: RESTRICTED TURN INTERSECTIONS. 130
CHAPTER 77: PARKING SCHEDULE 133
SCHEDULE I: ANGLE PARKING. 133
SCHEDULE II: NO PARKING ZONES. 134
SCHEDULE III: LIMITED PARKING ZONES. 136
SCHEDULE IV: LOADING ZONES. 137
SCHEDULE V: BUS ZONES. 138
SCHEDULE VI: NO TRUCK OR CAMPER PARKING. 139
SCHEDULE VII: PARKING METER ZONES. 140
SCHEDULE VIII: PARKING METER OPERATING PERIODS. 141
SCHEDULE IX: AUTHORIZED PARKING AREAS FOR PARKING PERMITS. 142

TITLE IX: GENERAL REGULATIONS 143

CHAPTER 90: ANIMALS 144
§ 90.01 PURPOSE. 144
§ 90.02 DEFINITIONS. 144
§ 90.03 ANIMAL CARE. 145
§ 90.04 CONTRACTUAL SERVICE. 146
§ 90.05 ENFORCEMENT. 146
§ 90.20 PERMITS FOR COMMERCIAL ANIMAL ESTABLISHMENTS. 146
§ 90.21 REVOCATION OF LICENSE/PERMIT. 147
§ 90.22 INSPECTION OF PREMISES. 148
§ 90.23 DENIAL OF LICENSE/PERMIT. 148
§ 90.40 RESTRAINT OF ANIMALS. 148
§ 90.41 REMOVAL OF ANIMAL WASTE. 148
§ 90.60 FARM AND WILD ANIMALS. 149
§ 90.61 IMPOUNDMENT OF STRAY ANIMALS. 150
§ 90.99 PENALTY. 150
CHAPTER 91: ABANDONED VEHICLES 152

§ 91.01 ABANDONED VEHICLES. 152
CHAPTER 92: STREETS AND SIDEWALKS 153
§ 92.001 PURPOSE. 154
§ 92.002 DEFINITIONS. 154
§ 92.003 EXCAVATION PERMITS REQUIRED. 154
§ 92.004 APPLICATION FOR PERMIT. 155
§ 92.005 EXCAVATION REQUIREMENTS. 155
§ 92.006 INSPECTIONS. 156
§ 92.007 EMERGENCIES. 157
§ 92.008 EXCLUSIONS. 157
§ 92.009 MAPS OF UNDERGROUND UTILITY LINES. 157
§ 92.010 BANNERS/SIGNS ACROSS STREETS/ALLEYS. 157
§ 92.025 PURPOSE. 158
§ 92.026 DEFINITIONS. 158
§ 92.027 SIDEWALKS. 158
§ 92.028 CURBS. 160
§ 92.029 AWNINGS/SIGNS OVER OR NEAR SIDEWALKS. 161
§ 92.045 NAME. 162
§ 92.046 SCOPE. 162
§ 92.047 PERMIT APPLICATION. 162
§ 92.048 BOND PROVISIONS. 164
§ 92.049 PERMIT EXTENSIONS. 164
§ 92.050 RELEASE OF BOND. 164
§ 92.051 INSPECTIONS. 164
§ 92.052 SPECIFICATIONS. 164
§ 92.053 MAINTENANCE. 168
§ 92.054 OTHER PERMITS REQUIRED. 168
§ 92.055 FEES FOR PERMITS. 168
§ 92.070 BUSINESS SURVEY AND ENFORCEMENT OF PARKING ACCESSIBILITY 169
§ 92.071 STREETS AND SIDEWALKS. 169
§ 92.072 GENERAL PROVISIONS. 170
§ 92.999 PENALTY. 171
CHAPTER 93: NUISANCES 172

§ 93.01 PURPOSE. 173
§ 93.02 POWER AND AUTHORITY OF THE TOWN COUNCIL. 173
§ 93.03 DEFINITIONS. 173
§ 93.04 NUISANCE CREATED BY OTHERS. 174
§ 93.05 DUTY OF THE TOWN COUNCIL, TOWN MARSHAL AND TOWN BUILDING .. 174
§ 93.06 DUTY OF THE TOWN MARSHAL TO REMOVE NUISANCES FROM PUBLIC .. 174
§ 93.20 ACCUMULATION OF FILTH, TRASH, AND THE LIKE. 174
§ 93.21 LITTERING. 175
§ 93.22 OBSTRUCTING SIDEWALKS, STREETS, OR ALLEYS. 175
§ 93.23 WEEDS AND RANK VEGETATION. 175
§ 93.24 TREES, SHRUBS AND OTHER OBSTRUCTIONS. 176
§ 93.25 OBSTRUCTIONS AT STREET/ALLEY INTERSECTIONS. 176
§ 93.26 OPEN WELLS/CISTERNS. 176
§ 93.27 DISCARDED REFRIGERATORS, AND OTHER APPLICANCES CONTAINING DOORS. 177
§ 93.28 ATTACHMENT OF POSTERS TO POLES, TREES. 177
§ 93.29 NOXIOUS ODORS. 177
§ 93.30 OBNOXIOUS NOISES. 177
§ 93.31 GRAFFITI. 178
§ 93.32 STORAGE OF JUNK 178
§ 93.45 REQUEST TO ABATE NUISANCE. 179
§ 93.46 SERVICE OF NOTICE. 179
§ 93.47 REFUSAL OR NEGLECT TO ABATE NUISANCE. 179
§ 93.48 ACTION AGAINST CREATOR OF A NUISANCE. 179
§ 93.49 APPEAL OF NOTICE OF VIOLATION, CITATION, OR ABATEMENT COSTS.... 179
§ 93.99 PENALTY. 180
CHAPTER 94: GENERAL FIRE REGULATIONS 181
§ 94.01 BURNING OF STRUCTURES. 181
§ 94.02 BONFIRES. 181
CHAPTER 95: TREE PLOTS 182
§ 95.01 PURPOSE 182
§95.02 INTENT 182
§ 95.03 POLICY. 183
§ 95.04 DEFINITIONS. 183

§ 95.05 APPLICABILITY. 184
§ 95.06 REMOVAL, NEWLY PLANTED OR REPLACEMENTS 184
§ 95.07 OBSTRUCTIONS AND PRUNING 184
§ 95.08 PERMITS 185
§ 95.09 FEES 185
§ 95.10 TREE ADVISORY COMMITTEE 185
§ 95.11 TERMS OF OFFICE 186
§ 95.12 COMPENSATION 186
§ 95.13 OPERATION 186
§ 95.14 MEETINGS 186
§ 95.15 MINUTES AND RECORDS 186
§ 95.16 QUORUM 187
§ 95.17 DUTIES AND RESPONSIBILITIES 187
§ 95.18 JURISDICTION AND APPEALS 188
All actions or decisions taken or made by the Tree Advisory Committee shall 188
§ 95.99 PENALTIES 188
CHAPTER 96: PARKS AND RECREATION 190
§ 96.01 HOURS OF USE FOR THE COOPER COMMONS PARK AREA. 190
CHAPTER 97: FAIR HOUSING 191
§ 97.01 PURPOSE 191
§ 97.02 DEFINITIONS 191
§ 97.03 UNLAWFUL PRATICE 192
§ 97.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING 194
§ 97.05 DISCRIMINATION IN RESIDENTIAL REAL ESTAET-RELATED TRANSACTIONS 195
§ 97.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE 196
§ 97.07 INTERFERENCE, COERCION, OR INTIMIDATION 196
§ 97.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES 196
§ 97.09 EXEMPTIONS 197
§ 97.99 ADMINISTRATIVE ENFORCEMENT OF ORDINANCE 198
CHAPTER 98: DISCHARGE OF PROJECTILES/WEAPONS 199
§98.01 DEFINITIONS. 199
§98.02 USE OF WEAPONS/PROJECTILES PROHIBITED. 199
§98.03 PERMIT TO DISCHARGE WEAPONS/PROJECTILES 199

§98.99 PENALTY. 200

TITLE XI: BUSINESS REGULATIONS 201

CHAPTER 110: GENERAL PROVISIONS 202
§ 110.01 ALCOHOLIC BEVERAGES. 202

CHAPTER 111: PEDDLERS AND SOLICITORS 203
§ 111.01 REGULATING CANVASSERS AND SOLICITORS. 203

CHAPTER 112: MOBILE FOOD VENDORS 204
§112.01 APPLICABILITY 204

§112.02 DEFINITIONS 204

§112.03 APPLICATION, LICENSE, AND FEES 205

§112.04 VETERANS AND NOT FOR PROFIT ORGANIZATIONS RIGHT TO LICENSE WITHOUT FEE 205

§112.05 GENERAL REGULATIONS 205

§112.06 PENALTIES FOR VIOLATION; ENFORCEMENT 207

TITLE XIII: GENERAL OFFENSES 208

TITLE XV: LAND USAGE 209

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION 210
§ 150.01 TITLE. 211

§ 150.02 PURPOSE. 211

§ 150.03 AUTHORITY. 211

§ 150.04 SCOPE. 211

§ 150.05 DEFINITIONS. 211

§ 150.06 RULES; ADOPTED BY REFERENCE. 215

§ 150.07 SETBACK REQUIREMENTS. 215

§ 150.20 APPLICATION FOR PERMIT. 218

§ 150.21 PERMIT REQUIRED. 218

§ 150.22 NON-ANCHORED SEMI-TRAILERS AND MOBILE HOMES. 218

§ 150.23 ACCESSORY STRUCTURES, DETACHED GARAGES AND CARPORTS THAT REQUIRE A TOWN BUILDING PERMIT. 219

§ 150.24 WORK TO COMPLY WITH OTHER APPLICABLE REGULATIONS. 219

§ 150.25 FEES. 219

§ 150.26 EARLY START; ADDITIONAL FEE. 220

§ 150.27 WAIVER OF FEE. 221
§ 150.28 REVIEW OF APPLICATION. 221
§ 150.45 PURPOSE. 221
§ 150.46 DEFINITIONS. 222
§ 150.47 DWELLINGS DECLARED A PUBLIC NUISANCE. 222
§ 150.48 NOTIFICATION TO OWNER. 222
§ 150.49 INSPECTION OF PREMISES. 223
§ 150.50 REPORT OF INSPECTION. 223
§ 150.51 OFFICIAL ORDER TO REMEDY CONDITIONS. 223
§ 150.52 SERVICE OF ORDER. 224
§ 150.53 NOTICE TO THE PUBLIC. 224
§ 150.54 HEARINGS. 224
§ 150.55 RAZING THE STRUCTURE/DWELLING. 225
§ 150.56 SALVAGE MATERIALS. 225
§ 150.99 PENALTY. 225
CHAPTER 151: FLOOD DAMAGE PREVENTION 227
§ 151.01 STATUTORY AUTHORIZATION AND FINDINGS OF FACT. 227
§ 151.02 STATEMENT OF PURPOSE 228
§ 151.03 DEFINITIONS 229
§ 151.04 LANDS TO WHICH THIS ORDINANCE APPLIES 238
§ 151.05 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA 238
§ 151.06 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT 239
§ 151.07 DESIGNATION OF ADMINISTRATOR 239
§ 151.08 PERMIT PROCEDURES 239
§ 151.09 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR 240
§ 151.10 PROVISIONS FOR FLOOD HAZARD REDUCTION-GENERAL STANDARDS ... 242
§ 151.11 PROVISIONS FOR FLOOD HAZARD REDUCTION-SPECIFIC STANDARDS 243
§ 151.12 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR SUBDIVISION PROPOSALS 246
§ 151.13 PROVISIONS FOR FLOOD HAZARD REDUCTION-CRITICAL FACILITY 247
§ 151.14 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR 247
§ 151.15 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR IDENTIFIED FRINGE 248

§ 151.16 PROVISIONS FOR FLOOD HAZARD REDUCTION- STANDARDS FOR SFHAs WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES. 248
§ 151.17 PROVISIONS FOR FLOOD HAZARD REDUCTION-STANDARDS FOR FLOOD PRONE AREAS 249
§ 151.18 DESIGNATION OF VARIANCE AND APPEALS BOARD 249
§ 151.19 DUTIES OF VARIANCE AND APPEALS BOARD 249
§ 151.20 VARIANCE PROCEDURES 249
§ 151.21 CONDITIONS FOR VARIANCES 250
§ 151.22 VARIANCE NOTIFICATION 251
§ 151.23 HISTORIC STRUCTURE 251
§ 151.24 SPECIAL CONDITIONS 251
§ 151.25 COMPLIANCE 251
§ 151.26 ABROGATION AND GREATER RESTRICTIONS 252
§ 151.27 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS 252
§ 151.28 INTERPRETATION 252
§ 151.29 WARNING AND DISCLAIMER OF LIABILITY 252
§ 151.99 PENALTIES FOR VIOLATION 253
§ 152.001 PURPOSE. 255
§ 152.002 APPLICABILITY. 255
§ 152.003 DEFINITIONS. 256
§ 152.004 CONFLICTS WITH OTHER PROVISIONS. 257
§ 152.005 ENFORCEMENT. 257
§ 152.020 BASIC DISTRICTS. 257
§ 152.021 TOWN ZONING MAP. 257
§ 152.022 ZONING DISTRICT BOUNDARIES. 258
§ 152.040 A-1 AGRICULTURAL DISTRICT. 258
§ 152.041 BLM-1 BUSINESS AND LIGHT MANUFACTURING DISTRICT. 258
§ 152.042 I-1 INDUSTRIAL DISTRICT. 258
§ 152.043 R-1 RESIDENTIAL DISTRICT. 259
§ 152.044 R-2 RESIDENTIAL DISTRICT. 259
§ 152.060 MOBILE HOME PARKS DEFINITION. 259
§ 152.061 LOCATION CRITERIA. 259

§ 152.062 APPROVAL FOR MOBILE HOME PARKS. 260
§ 152.080 MEMBERSHIP OF BZA. 260
§ 152.081 ORGANIZATION OF THE BZA. 260
§ 152.082 MEETINGS. 261
§ 152.083 MINUTES AND RECORDS. 261
§ 152.084 QUORUM. 261
§ 152.085 ADOPTION OF RULES. 261
§ 152.086 POWERS AND DUTIES. 261
§ 152.087 VARIANCE OF USE. 262
§ 152.088 VARIANCES FROM DEVELOPMENTAL STANDARDS. 262
§ 152.089 GROUNDS OF APPEAL; RECORDS; DECISIONS. 262
§ 152.090 BZA HEARINGS ON APPEALS, EXCEPTIONS. 263
§ 152.091 REMEDIES FOR THE AGGRIEVED. 263
§ 152.092 CRITERIA FOR GRANTING EXCEPTIONS, VARIANCES. 263
§ 152.093 SPECIAL CONDITIONS. 264
§ 152.110 CONTINUANCES OF USE. 264
§ 152.111 NON-CONFORMING USE CESSATION. 265
§ 152.112 ZONING DISTRICT CHANGES LIFE SERVICES. 265
§ 152.125 SCOPE. 265
§ 152.126 PARKING AREA. 265
§ 152.127 PARKING SPACE. 265
§ 152.128 LOCATION OF PARKING. 265
§ 152.129 PARKING LOT REQUIREMENTS. 266
§ 152.130 PARKING LOT PLANS. 266
§ 152.131 PARKING RESTRICTIONS. 267
§ 152.132 TABLE OF OFF-STREET PARKING REQUIREMENTS. 267
§ 152.133 MISCELLANEOUS OFF-STREET PARKING PROVISIONS. 271
§ 152.134 OFF-STREET LOADING REQUIREMENTS. 271
§ 152.135 PARKING AND MANEUVERING LANE STANDARDS. 272
§ 152.999 PENALTY. 273
CHAPTER 153: SUBDIVISION 274
§ 153.001 GENERAL REQUIREMENTS. 276
§ 153.002 DEFINITIONS. 277

§ 153.003 GENERAL PROVISIONS. 277
§ 153.020 PRE-APPLICATION FOR SUBDIVISION APPROVAL. 278
§ 153.021 DIRECTOR OF PLANNING SERVICES PRELIMINARY REVIEW. 279
§ 153.022 FORMAL APPLICATION. 279
§ 153.023 FILING FEE. 279
§ 153.024 DIRECTOR OF PLANNING SERVICES FORMAL REVIEW. 279
§ 153.040 PRELIMINARY PLAT APPROVAL. 280
§ 153.041 NOTIFICATION OF DECISION. 280
§ 153.042 EFFECTIVE TERM OF PRIMARY APPROVAL. 281
§ 153.043 PRELIMINARY PLAT REQUIRED FORMAT. 281
§ 153.044 PRELIMINARY PLAT REQUIRED INFORMATION. 281
§ 153.060 SECONDARY APPROVAL. 283
§ 153.061 RECORDING OF APPROVED PLAT. 283
§ 153.062 FAILURE TO RECORD PLAT. 283
§ 153.063 PHASING OF CONSTRUCTION. 284
§ 153.064 SECONDARY APPROVAL PRIOR TO COMPLETION OF IMPROVEMENTS. . 284
§ 153.065 DETERMINATION OF COMPLIANCE WITH PRIMARY APPROVAL. 284
§ 153.066 EVIDENCE OF COMPLIANCE WITH PRIMARY APPROVAL. 285
§ 153.067 FINAL PLAT REQUIRED FORMAT. 285
§ 153.068 FINAL PLAT REQUIRED INFORMATION. 286
§ 153.085 APPLICABILITY. 286
§ 153.086 DEVELOPMENT STANDARDS. 286
§ 153.087 SUBDIVISION AND DEVELOPMENT PLANS REQUIRED. 286
§ 153.088 CERTIFICATION OF DESIGN. 286
§ 153.089 DEVELOPMENT AND SUBDIVISION PLAN APPROVAL. 286
§ 153.090 EXEMPT SUBDIVISIONS OF LAND. 287
§ 153.091 DEVELOPMENT PLAN STANDARDS. 287
§ 153.092 COMPLIANCE WITH COMPREHENSIVE PLAN, SUBDIVISION AND ZONING ORDINANCES. 287
§ 153.093 CONDITIONS OF THE LAND. 288
§ 153.094 PUBLIC SITES. 288
§ 153.095 ESTIMATE OF COST OF CONSTRUCTION. 288
§ 153.096 WAIVER AND MODIFICATION OF DEVELOPMENT PLAN. 288

§ 153.097 APPEALS TO THE PLAN COMMISSION. 290
§ 153.098 SURVEY MONUMENTS. 290
§ 153.099 BLOCKS. 290
§ 153.100 LOTS AND STREETS. 290
§ 153.101 ALLEYS. 291
§ 153.102 UTILITY EASEMENTS. 291
§ 153.120 APPLICABILITY. 292
§ 153.121 GENERAL DESIGN CONSIDERATIONS. 292
§ 153.122 STREET DESIGN STANDARDS. 292
§ 153.123 SIGHT DISTANCE. 293
§ 153.124 EXTENSION OF STREETS 293
§ 153.125 INTERSECTIONS. 294
§ 153.126 GRADING. 294
§ 153.127 TRAVERSE SLOPES. 294
§ 153.128 MINIMUM RADII OF CURVATURE ON THE CENTERLINE. 295
§ 153.129 MINIMUM RIGHT-OF-WAY WIDTHS. 295
§ 153.130 HALF RIGHTS-OF-WAY FOR STREETS AND ALLEYS. 295
§ 153.131 PAVEMENT WIDTHS. 296
§ 153.132 PAVEMENT MATERIALS AND MINIMUM DEPTHS. 296
§ 153.133 CURBS AND GUTTERS. 297
§ 153.134 SHOULDERS. 297
§ 153.135 SIDEWALKS. 297
§ 153.136 SIGNS. 298
§ 153.150 WASTEWATER TREATMENT; SANITARY SEWER STANDARDS. 298
§ 153.151 ACCEPTANCE OF IMPROVEMENTS. 298
§ 153.152 WASTEWATER TREATMENT OPTIONS. 298
§ 153.170 WATER SUPPLY SYSTEM STANDARDS. 299
§ 153.171 ACCEPTANCE OF IMPROVEMENTS. 299
§ 153.172 FIRE HYDRANTS. 299
§ 153.190 ELECTRIC SERVICE. 300
§ 153.191 COMMUNICATIONS SERVICES. 300
§ 153.205 DUTIES OF THE DIRECTOR OF PLANNING SERVICES. 300
§ 153.206 REFERENCE TO OTHER STATUTES AND REGULATIONS. 300

§ 153.207 CONFLICT WITH OTHER STATUTES. 300
§ 153.999 PENALTY. 301
CHAPTER 154: ECONOMIC REVITALIZATION AREAS 302
§ 154.001 PROCEDURAL REQUIREMENTS FOR TAX ABATEMENT 302
§ 154.002 DECLARATION OF ECONOMIC REVITALIZATION AREAS 303
§ 154.003 DECLARATION OF BLIGHTED AREAS 306
CHAPTER 155: RENTAL HOUSING 307
§ 155.01 PURPOSE. 307
§ 155.02 DEFINITIONS. 307
§ 155.03 COMPLIANCE REQUIRED; APPLICATION OF CHAPTER. 308
§ 155.04 REGISTRATION OF RENTAL UNITS REQUIRED. 309
§ 155.05 ANNUAL REGISTRATION FEES. 310
§ 155.06 REGISTRATION RENTAL PERMITS. 310
§ 155.07 RENTAL HOUSING FUND ESTABLISHED. 310
§ 155.99 PENALTY. 310
CHAPTER 156: REDEVELOPMENT COMMISSION 312
§156.01 TITLE 312
§156.02 PURPOSE 312
§156.03 JURISDICTION 312
§156.04 COMMISSIONERS 312
§156.05 MEETINGS 314
§156.06 CONFLICT OF INTEREST 315
§156.07 DUTIES 315
§156.08 POWERS 315
§156.09 REPORTING REQUIREMENTS 315

TABLE OF SPECIAL ORDINANCES 317

TABLE I: ANNEXATIONS 318
TABLE II: CONTRACTS AND AGREEMENTS 319
TABLE III: FUNDS 325
TABLE IV: STREET AND ALLEY VACATIONS 328
TABLE V: PLANNING AND ZONING 330
TABLE VI: PROCLAMATIONS 334
TABLE VII: TAX ABATEMENTS 335
TABLE VIII: DEVELOPMENT AREAS; ECONOMIC DEVELOPMENT AREAS 336

INDEX 337