

CITY CODE
of
SPENCER, IOWA

1996

Code current through:

Ord. 860, passed 9-21-2020

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PREFACE

This code of the City of Spencer, as supplemented, contains ordinances up to and including ordinance 860, passed September 21, 2020. Ordinances of the City adopted after said ordinance supersede the provisions of this code to the extent that they are in conflict or inconsistent therewith. Consult the City office in order to ascertain whether any particular provision of the code has been amended, superseded or repealed.

Sterling Codifiers

Cincinnati, Ohio

ORDINANCES PENDING CODIFICATION

Ordinances listed have been passed, but have not been incorporated in the actual code. Please contact the office of the clerk if there are any questions concerning the ordinances listed.

ORDINANCE NO. 861

AN ORDINANCE REPEALING TITLE 8, CHAPTER 3 OF THE SPENCER CITY CODE ENTITLED, "ELECTRICAL CODE" AND ADOPTING A REPLACEMENT TITLE 8, CHAPTER 3, "ELECTRICAL CODE"

WHEREAS, the City Electrical Board has recommended that the Council repeal provisions of Title 8, Chapter 3 of the Spencer City Code which contain amendments, modifications, additions and deletions from the National Electrical Code; and,

WHEREAS, the Electrical Inspector has recommended other changes to Title 8, Chapter 3; and,

WHEREAS, the Council and the Long-range Planning Committee of the Council have thoroughly considered the recommendations of the Electrical Board and of the Electrical Inspector and have determined that the repeal and re-adoption of Title 8, Chapter 3, the Spencer Electrical Code, is appropriate and in the best interests of the citizens of Spencer.

NOW, THEREFORE, BE IT ORDAINED by the Spencer City Council as follows:

Section 1. Title 8, Chapter 3 of the Spencer City Code, the "Electrical Code", is hereby repealed.

Section 2. There is hereby adopted a new replacement Title 8, Chapter 3 of the Spencer Code entitled, "Electrical Code":

8-3-1: SHORT TITLE: This chapter shall be known as the SPENCER, IOWA, ELECTRICAL ORDINANCE and may be so cited.

8-3-2: PURPOSE AND SCOPE: It is the purpose of this chapter to adopt a complete Electrical Code, including provisions for the inspection and regulation of electrical installations, issuance of permits and collection of fees, and to provide penalties for violations of this chapter in order to protect the public safety, health and welfare.

The provisions of this chapter shall apply to and govern the supply of electricity and all sales, rentals, leases, uses, installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnections and maintenance of all electrical equipment. For purposes of this chapter, the term "electrical equipment" means all materials, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

The following activities are exempt from the provisions of this chapter:

The installation, alteration or repair of electrical generation, transmission or distribution equipment, but not utilization equipment, owned and operated by an electrical public utility company or the Spencer Municipal Utilities.

The installation, alteration or repair of electrical signal or communication equipment owned or operated by a public utility company or the Spencer Municipal Utilities.

Any work on or in boats, railway cars, buses, aircraft and motor vehicles.

Any work in connection with electrical equipment used for radio and television transmission, but not including supply wire to such equipment.

Any work involved in the manufacturing or testing of electrical equipment or apparatus, but not including any permanent wiring or equipment.

Any work associated with:

The repair of plug connected electrical appliances or devices.

Permanently connected electrical appliances or devices that have been electrically and mechanically disconnected and separated from all sources of electrical supply by a licensed electrician. The opening of switches or the blowing or removal of fuses shall not be considered an electrical or mechanical disconnection or separation.

The installation or replacement of approved fuses.

The installation or replacement of pin-type lamps, screw base lamps or plug connected portable appliances.

8-3-3: ADOPTION OF ELECTRICAL CODE: The current National Electrical Code, as amended, and adopted by the State of Iowa is hereby adopted in full. From the effective date of this chapter, all electrical work as defined in Section 8-3-2 of this chapter shall be performed in accordance with the provisions of this Code. A copy of the National Electrical Code, as adopted, and a certified copy of this chapter shall be on file in the Office of the City Clerk for public inspection.

8-3-4: ELECTRICAL INSPECTOR. An Electrical Inspector of the City of Spencer shall be appointed by the Council upon the recommendation of the City Manager. The Electrical Inspector shall administer the provisions of Title 2, Chapter 13 and Title 8, Chapter 3 of the Spencer City Code.

8-3-5: ADMINISTRATION AND ENFORCEMENT: It shall be the duty of the electrical inspector or a duly authorized agent to administer and enforce the provisions of this chapter. The electrical inspector shall keep complete records of all permits issued, inspections and re-inspections made, and other official work performed in accordance with the provisions of this chapter.

8-3-6: PERMIT FOR ELECTRICAL WORK: No electrical work as defined in section 8-3-2 of this chapter shall be done unless a permit authorizing the work has been issued by the electrical inspector. A permit shall be issued if the electrical work, as proposed in the application for a permit, meets all the requirements of this chapter. If plans and specifications are requested by the electrical inspector, they must meet the requirements of this chapter.

8-3-7: PERMIT: TO WHOM ISSUED: Permits shall be issued only to Master electricians licensed by the State of Iowa. However, any permit required by this chapter may be issued to the owner of a single-family dwelling or mobile home used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters; provided, that the dwelling will be occupied by the owner, that the owner appears before the electrical inspector and shows himself competent to do the specific work for which he desires a permit, and that the owner personally shall purchase all materials and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected like other work. This homeowner's exemption shall not apply to rental property or property offered for sale.

8-3-8: APPLICATION FOR PERMIT: Applications for permits shall be made to the electrical inspector on forms provided by the City Clerk, prior to beginning the particular work, except for emergency work. The application shall include the name and business address of the person that is to do the work, a description of the property where the work is to be done, the name of the owner of the property, the name of the occupant, and a general description of the materials to be used, and shall specify the particular part or parts of the work that must be inspected as required by this chapter. For all new electrical services and service upgrades, load calculations are required to be submitted with the permit application. The application shall be accompanied by fees in accordance with the schedule of fees set out in section 8-3-11 of this chapter.

8-3-9: PLANS AND SPECIFICATIONS: Plans and specifications showing the proposed work in the necessary detail shall be submitted if requested by the electrical inspector. If a permit is denied, the applicant may submit revised plans and specifications without payment of any additional fee. If, in the course of the work, it is found necessary to make any change from the plans and specifications on which a permit was issued, amended plans and specifications shall be submitted. Fees in the amount of one-half (½) the fees originally required shall be paid. A supplementary permit, subject to the same conditions applicable to the original permit, shall be issued to cover the change.

8-3-10: EMERGENCY WORK: In emergency situations, work can be initiated and completed by licensed electricians without first obtaining a permit. However, a permit must be obtained within forty-eight (48) hours, excluding Saturdays, Sundays and legal holidays. With this exception, all emergency work must be done in conformity with the provisions of this chapter and shall be inspected by the electrical inspector for full compliance.

8-3-11: SCHEDULE OF FEES:

Circuits other than new building construction:

First circuit: Ten dollars (\$10.00).

Each additional circuit: Three dollars (\$3.00).

Temporary service: Thirty dollars (\$30.00)

Service entrances, including new circuits:

Nature of Service	Up to 200 Amperes	201 – 400 Amperes	Over 400 Amperes
Replacement/upgrade (includes 1 inspection)	\$30.00	\$60.00	\$60.0 plus \$10.00 for each additional 100 amps
New Service (includes up to 4 inspections)	\$60.00	\$90.00	\$90.00 plus \$10.00 for each additional 100 amps

Additional Inspections: Thirty dollars (\$30.00).

These fees shall be paid to the City Clerk at the time an application is submitted, except that addition inspection fees shall be billed upon completion and shall be due and payable twenty (20) days following the date of the statement. If a statement is paid within twenty (20) days of the date of issuance, no finance charge shall be collected. If the statement is not so paid, a finance charge of one

and one-half percent (1½%) per month shall be imposed and paid.

8-3-12: INSPECTIONS: Upon the completion of electrical work that has been done under a permit, the person doing the work shall notify the electrical inspector. The electrical inspector shall inspect the work within twenty-four (24) hours, exclusive of Saturdays, Sundays, and holidays, after receipt of notice, or as soon thereafter as practicable.

If any electrical equipment is to be hidden from view by the permanent placement of parts of a building, structure or grounds, the person installing the equipment shall notify the electrical inspector. Such equipment shall not be concealed until it has been inspected and approved by the electrical inspector. On installations where the concealment of equipment proceeds continuously, the person installing the equipment shall give the electrical inspector due notice, and inspections shall be made periodically during the progress of the work. During all inspections, the contractor or contractor's representative shall be present onsite.

8-3-13: RIGHT OF ENTRY: The electrical inspector shall have the right, during reasonable hours and upon consent of the occupant, to enter any building or premises in the discharge of the electrical inspector's official duties to make any inspection, reinspection, or test of electrical equipment that is reasonably necessary to protect the public health, safety and welfare.

Where the building or premises is unoccupied, the consent of the owner shall be obtained. If the electrical inspector has reasonable cause to believe that electrical installations or equipment within the building or premises constitute an extreme hazard to persons or property, the electrical inspector shall have the right to immediately enter and inspect such installations or equipment and may use any reasonable means required to effect such entry and make such inspection, whether such property be occupied or unoccupied and whether or not permission to inspect has been obtained.

8-3-14: SHUTTING OFF SUPPLY: If the electrical inspector finds that any electrical equipment or installation is defective or that it has been installed in conflict with the provisions of this chapter, he shall notify the person responsible for the electrical equipment or installation by certified mail of his findings and order. If the necessary changes or repairs are not completed within fifteen (15) days (or longer period as specified in the notice), the electrical inspector shall have the authority to disconnect or order the discontinuance of electrical service to the equipment or installation in question. No disconnection shall be made during the pendency of an appeal to the electrical board. In cases where maintenance of electrical service to the electrical equipment or installations constitutes an extreme hazard to persons or property, the electrical inspector shall have authority to cause immediate discontinuance of such service.

If fires have damaged the wiring of any building or structure, reconnection to electrical supply shall not be made until authorized by the electrical inspector.

8-3-15: ELECTRICAL POWER SUPPLY: It shall be unlawful for any person to make connection from a supply of electricity or to supply electricity to any electrical equipment for the installation which a permit is required unless such connection has been authorized by the electrical inspector. It shall be unlawful to make connections to equipment that has been disconnected or ordered to be disconnected by the electrical inspector.

8-3-16: INTERIM APPLICATION: For appeal purposes, the current electrical board shall remain duly qualified for the purpose of hearing appeals until such time as the new electrical board is appointed.

8-3-17: PENALTY: Anyone violating any of the provisions of this chapter shall, upon conviction, be subject to penalty as provided in section 1-4-1. The violating party may also be made the subject of a municipal infraction citation pursuant to 1-4-A of the Spencer city code."

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. This ordinance shall be in effect following its final passage, approval and publication as provided by law on January 1, 2021.

Passed by the Council the 16th day of November, 2020, and approved this 16th day of November, 2020.

Kevin Robinson, Mayor

Attest:

Theresa E. Reardon, City Clerk

I hereby certify that the foregoing was published as Ordinance No. 861 in the Spencer Daily Reporter on the 24th day of November, 2020.

Theresa E. Reardon, City Clerk

ORDINANCE NO. 862

AN ORDINANCE REPEALING TITLE 2, CHAPTER 13 OF THE SPENCER CITY CODE ENTITLED "ELECTRICAL BOARD" AND ADOPTING A NEW TITLE 2, CHAPTER 13 OF THE SPENCER CITY CODE

WHEREAS, the State of Iowa now licenses electricians and electrical contractors and the city of Spencer no longer licenses electrical contractors; and,

WHEREAS, many of the provisions of Title 2, Chapter 13 of the Spencer City Code concern licensing of electricians and electrical contractors; and,

WHEREAS, the Electrical Board has recommended and the City Council has considered and now determines to adopt substantial amendments to Title 2, Chapter 13 of the Spencer City Code in accordance with current and intended practice.

NOW, THEREFORE, BE IT ORDAINED by the Spencer City Council as follows:

Section 1. Title 2, Chapter 13 of the Spencer City Code, sections 1 through 23, inclusive, is hereby repealed.

Section 2. There is hereby adopted a new Title 2, Chapter 13 of the Spencer City Code entitled, "Electrical Board" as follows:

"2.13.1: PURPOSE AND SCOPE. The purpose of this Chapter is to provide for the creation of a Spencer Electrical Board to regulate state-licensed electricians and electrical contractors, to provide for exemptions from licensing, and for the protection of the public.

The provisions of this chapter shall not apply to any of the following: regular employees of a public utility who do electrical work for such public utility only; the electrical work of a telephone or telegraph company, nor the persons performing electrical work for such a company, where such electrical work is an integral part of the plant used by such telephone or telegraph company in rendering its duly authorized service to the public; regular employees of any railroad who do electrical work only as a part of that employment; and city, county and state employees on work related to their employment.

2-13-3: DEFINITIONS: For use in this chapter, the following terms are defined:

ELECTRICAL CONTRACTING: Undertaking, or offering to undertake, the planning or supervision of electrical work.

ELECTRICAL CONTRACTOR: Any person, partnership, firm, corporation or association who has the necessary qualifications, training, experience and technical knowledge to plan or supervise electrical work.

ELECTRICAL EQUIPMENT: All electrical materials, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

ELECTRICAL WORK: All installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnections and maintenance of all electrical equipment.

JOURNEYMAN ELECTRICIAN: A person who has the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work, under the directions of a master electrician.

LICENSED: Licensed by the State of Iowa.

MASTER ELECTRICIAN: A person who has the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work.

SHALL: If the word "shall" is used, the meaning is that the act to be performed is mandatory.

2-13-4: ELECTRICAL CONTRACTOR'S LICENSE. No person shall engage in electrical contracting within the city unless such person shall have obtained an electrical contractor's license or shall hold a current valid license issued by the state electrical examining board appropriate to the work to be performed. In the case of a partnership, corporation or any other association organized to engage in electrical contracting, every partner, associate, officer, director or manager who is actually engaged as an "electrical contractor" as defined in section 2-13-2 of this chapter shall be licensed. Personnel acting pursuant to a state issued license shall provide a copy of such license to the City Clerk's Office.

2-13-5: LICENSED REQUIRED: No person shall engage in doing electrical work unless licensed as an electrical contractor or master electrician, except as provided in this section and section 2-13-7 of this chapter.

Apprentices and helpers employed to assist a licensed electrician need not be licensed; provided, however, that such apprentices and helpers perform their work under the direct supervision of a licensed journeyman or master electrician, who shall be physically present at the work site at all times when electrical work is being performed. No licensed electrician shall supervise more than three (3) apprentices and helpers at any one time.

2-13-6: HOMEOWNERS: The owner or owners of a single-family dwelling or mobile home, including the usual accessory buildings and quarters used exclusively for living purposes, may do electrical work without a license if the owner demonstrates his capability to do such work to the satisfaction of the electrical inspector; provided, that the dwelling or mobile home will be occupied by the owner or owners and that a permit is used as provided in the Spencer, Iowa, electrical code.

2-13-7: ELECTRICAL BOARD CREATION: There is hereby created an electrical board.

City Electrical Inspector: The city electrical inspector shall serve as secretary to the board and shall keep minutes and records of proceedings of the board.

Quorum: Two (2) voting members of the electrical board shall constitute a quorum for the transaction of business.

Chairman: The electrical board shall elect annually one of its members as chairman. The chairman shall preside at all meetings of the board.

Meetings: The electrical board shall hold an annual meeting in the first week of February of each year. The board shall hold such special meetings as may be necessary for the proper performance of its duties. The secretary and chairman shall be responsible for scheduling all special meetings.

2-13-8: ELECTRICIAN'S BOND AND INSURANCE: Any person who seeks a permit to perform electrical work in the City of Spencer shall execute and deposit with the city clerk a bond in the sum of fifteen thousand dollars (\$15,000.00) with sureties approved by the clerk and mayor. This bond is to be held as surety that the licensee will fulfill these conditions:

That all electrical work performed by the licensee or under his supervision shall be performed in accordance with the provisions of the Spencer, Iowa, electrical ordinance.

That he will pay all fines and penalties properly imposed upon him for violation of this chapter and the Spencer, Iowa, electrical ordinance.

That the city shall be held free from any liability sustained by reason of the negligence or incompetence of such licensee or other person working under his supervision.

Further, all licensed electrical contractors shall post and maintain proof of liability insurance with the city clerk in an amount of at least one million dollars (\$1,000,000.00) per occurrence, which shall meet the requirements that the city shall be held free from any liability by reason of the negligence or incompetence of such licensee or other person working under his supervision.

2-13-9: LICENSE SUSPENSION: The electrical board, or the electrical inspector, may recommend to the state electrical examining board the suspension or revocation of an electrical contractor's or electrician's license for good cause. A copy of the recommendation shall be provided to the electrical contractor or electrician.

If the electrical board or electrical inspector determines that the public health or safety requires emergency action to suspend the authority of an electrical contractor or an electrician performing electrical contracting in the city of Spencer, the electrical inspector shall issue a Notice of Emergency Suspension to the offending electrical contractor or electrician and shall provide a copy to the state electrical examining board. The offending electrical contractor or electrician shall perform no electrical work in the city of Spencer so long as the emergency suspension remains effective.

2-13-10: MEETINGS OF THE ELECTRICAL APPEAL BOARD: The council shall provide suitable space in which the board may hold meetings and conduct hearings and shall provide the board necessary equipment and facilities and pay for these expenses. The board shall meet as often as may be necessary for the proper performance of its duties.

2-13-11: APPEAL: Any person aggrieved by the ruling, decision, interpretation or order of the electrical inspector shall have the right to appeal to the electrical board by filing a written notice of such appeal with the city clerk within two (2) days from the date of the ruling, decision, interpretation or order. If such notice is filed, the board shall set a time and place for a hearing, and notify the party that has filed the appeal. The date of the hearing shall not be more than fifteen (15) days after the date the notice of appeal was filed. The notice of the hearing shall be sent by certified mail. The hearing shall be open to the public; all interested persons shall be given an opportunity to be heard.

The electrical board by majority vote shall affirm, modify or reverse any appealed ruling, decision, interpretation or order of the electrical inspector. The electrical board may permit variance from the strict terms and provision of this chapter if such variance can be made without increasing the hazards to health or safety of persons or property and when the granting of such variance will not violate the intent and purposes of this chapter. Mere inconvenience to the appellant shall not be grounds for the granting of such variance. The aggrieved party may appeal the decision of the electrical board to the city council by filing written notice of appeal within ten (10) days from the date of the final action of the board. The council shall give five (5) days' written notice by certified mail to the appealing party, the board and electrical inspector of the date, time and place of hearing. All interested persons shall be given an opportunity to be heard. The city council shall affirm, modify or reverse the decision of the board. Action taken by the board shall be affirmed by the council if such action is supported by substantial evidence upon the whole record.

2-13-12: PENALTY: Anyone violating any of the provisions of this chapter, shall, upon conviction, be subject to a fine as provided in section 1-4-1 of this code. The violating party may also be made the subject of a municipal infraction citation pursuant to Title1 Chapter 4A of the Spencer city code.

2-13-13: EXEMPTIONS: Employees or firms or individuals working under contract of or with municipal utilities, electric membership or cooperative associations, or investor owned utilities while performing work within the scope of their employment or contract are exempt from the requirements of this chapter.”

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. This ordinance shall be in effect following its final passage, approval and publication as provided by law on January 1, 2021

Passed by the Council the 16th day of November, 2020, and approved this 16th day of November, 2020.

Kevin Robinson, Mayor

Attest:

Theresa E. Reardon, City Clerk

I hereby certify that the foregoing was published as Ordinance No. 862 in the Spencer Daily Reporter on the 24th day of November, 2020.

Theresa E. Reardon, City Clerk

TITLE 1

ADMINISTRATIVE

CHAPTER 1

CITY CODE

SECTION:

1-1-1: Title

1-1-2: Acceptance

1-1-3: Amendments

1-1-4: Applicability

1-1-1: TITLE:

Upon adoption by the governing body, this City Code is hereby declared to be and shall hereafter constitute the official City Code of the City of Spencer. Any reference made to the number of any section contained herein shall be understood to refer to the position of the same under its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this City Code by title in any legal document. (1969 Code)

1-1-2: ACCEPTANCE:

This City Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the City of general and permanent effect. (1969 Code)

1-1-3: AMENDMENTS:

Any ordinance amending this City Code shall set forth the title, chapter and section number of the section or sections to be amended, and shall set forth in full the ordinance, code, section or subsection as amended, and this shall constitute a sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this City Code. All such amendments or revisions by ordinance shall be immediately forwarded to Sterling Codifiers, Inc., and the said ordinance material shall be prepared for insertion in its proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code within thirty (30) days from the date of its final passage. (1969 Code; 1991 Code)

1-1-4: APPLICABILITY:

The provisions of this City Code shall be applicable within the corporate boundaries of the City and to all property owned or controlled by the City outside the corporate boundaries of the City. (Ord. 469, 10-16-95)

CHAPTER 2

SAVING CLAUSE

SECTION:

1-2-1: Repeal Of General Ordinances

1-2-2: Court Proceedings

1-2-1: REPEAL OF GENERAL ORDINANCES:

All general ordinances of the City passed prior to the adoption of this City Code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following Section), from which are excluded the following ordinances which are not hereby repealed: tax levy ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; ordinances authorizing the execution of a contract or the issuance of warrants; ordinances establishing, naming or vacating streets, alleys or other public places; bond ordinances; grade ordinances and all special ordinances. (1969 Code; 1991 Code)

1-2-2: COURT PROCEEDINGS:

No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the City herein repealed, and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provision; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this code. (1969 Code)

CHAPTER 3

DEFINITIONS

SECTION:

1-3-1: Rules Of Construction

1-3-2: Definitions

1-3-3: Catchlines

1-3-4: Continuing Provisions

1-3-1: RULES OF CONSTRUCTION:

In the construction of this code and of all ordinances of the city, the following rules of construction shall be observed, unless the context clearly requires otherwise:

- A. Whenever any words in any section of this code import the plural number, the singular shall be deemed to be included, and whenever the singular number shall be used, it shall be deemed to include the plural.
- B. Whenever the masculine gender is used, females as well as males shall be deemed to be included.
- C. The words "or" may be read "and" and "and" may be read "or", if the sense requires it.
- D. The word "shall" is mandatory, and the word "may" is permissive.
- E. Words in the present tense shall include the future. (1969 Code)

1-3-2: DEFINITIONS:

In the construction of this code and of all ordinances of the city, the following definitions shall be observed, unless the context clearly requires otherwise:

CITY: The city of Spencer, in the county of Clay, in the state of Iowa.

CITY COUNCIL, COUNCIL: The city council of the city of Spencer.

CODE: The code of the city of Spencer, Iowa, and all amendments thereto.

COMPUTING TIME: In computing time, the first day shall be excluded and the last included, unless the last falls on Sunday, in which case the time prescribed shall be extended so as to include the whole of the following Monday.

COUNTY: Clay County in the state of Iowa.

IN THE CITY: All territory over which the city now has or shall hereafter acquire jurisdiction.

JOINT AUTHORITY: Words giving a joint authority to three (3) or more public officers or other persons shall be construed as giving such authority to a majority of them, unless it shall be otherwise expressed in the ordinance or resolution giving the authority.

MONTH: A calendar month.

OATH, SWORN: The word "oath" shall be deemed to include an affirmation, and the word "sworn" shall be construed to include the word "affirmed".

OCCUPANT OR TENANT: Applied to a building or land, shall mean any person who holds a written or oral lease of, or actually occupies the whole or part of such building or land, either alone or with others.

OWNER: Any part owner, joint owner, tenant in common, contract purchaser, tenant in partnership or joint tenant of the whole or a part of any property, either alone or with others.

PERSON: A natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns or the agent of any of them.

PERSONAL PROPERTY: Every species of property, except "real property" as defined by this section.

PRECEDING, FOLLOWING: Next before and next after, respectively.

PROPERTY: Real and personal property.

REAL PROPERTY: Lands, tenements and hereditaments and shall embrace all chattels real.

SIGNATURE: Includes a handwritten signature, a signature stamp, or an electronic signature.

The mayor, city clerk and finance officer may use or direct and authorize a designee to possess and use a facsimile signature stamp or an electronically scanned signature. Such signature stamps or electronically scanned signatures shall be kept in the secure possession and under the control of the officer at all times.

STATE: The state of Iowa.

WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters.

YEAR: A calendar year unless otherwise expressed. (1969 Code; 1991 Code; Ord. 739, 11-19-2012)

1-3-3: CATCHLINES:

The headlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (1969 Code)

1-3-4: CONTINUING PROVISIONS:

The provisions appearing in this code, so far as they are the same as those of the 1953 ordinances of the city and all ordinances adopted subsequent thereto and included herein, shall be considered as continuations thereof and not as new enactments. (1969 Code)

CHAPTER 4

GENERAL PENALTY

SECTION:

1-4-1: Penalty

1-4-2: Separate Offense

1-4-3: Single Offense

1-4-4: Liability Of Officers

1-4-5: License Revocation; Infraction Charges; Civil Remedies

1-4-1: PENALTY:

Conviction of a violation of any provision of this Code may result in the sentence of a fine; not less than sixty five dollars (\$65.00) and not to exceed six hundred twenty five dollars (\$625.00). Criminal penalty surcharges imposed under State law shall be added to a City fine and are not a part of any fine imposed by the City.

These penalties shall apply to every section of this Code, as if the section were set out in every other section of this Code. (Ord. 825, 12-4-2017, eff. 1-1-2018)

1-4-2: SEPARATE OFFENSE:

If a violation of this Code is committed on more than one calendar day, a separate offense shall be deemed to have occurred on each such calendar day. (1991 Code)

1-4-3: SINGLE OFFENSE:

In cases where action or inaction is made punishable by more than one provision of this Code, the City may select the provision or provisions of this Code under which to proceed. In such a circumstance, a single offense shall result in no more than one conviction and penalty, subject to the provisions of section 1-4-2 of this chapter. (1991 Code)

1-4-4: LIABILITY OF OFFICERS:

No provision of this Code designating the duties of any officer or employee of the City shall be construed to make such officer or employee liable for any fine or penalty for a failure to perform such duty, unless the intention of the Council to impose such a penalty is specifically and clearly expressed in this Code. (1969 Code; 1991 Code)

1-4-5: LICENSE REVOCATION; INFRACTION CHARGES; CIVIL REMEDIES:

A violation of this Code, in addition to the penalties provided in this chapter, may subject the violator to loss of license or permit, a Municipal infraction charge, or other civil remedies provided in other sections of this Code. Conviction and imposition of sentence under this chapter shall not bar any such other civil remedies. (1991 Code)

ARTICLE A. MUNICIPAL INFRACTIONS

SECTION:

1-4A-1: Definitions

1-4A-2: Violations, Penalties And Alternative Relief

1-4A-3: Civil Citations

1-4A-4: Criminal Citations

1-4A-5: Enforcement Of Provisions

1-4A-1: DEFINITIONS:

MUNICIPAL INFRACTION: Except for those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under chapters 687 through 732 of the Iowa Code; the commission of any act prohibited or declared to be unlawful, an offense or a misdemeanor by this code, or any ordinance or code herein adopted by reference, or omission or failure to perform any act or duty required by this code, or any ordinance or code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

OFFICER: Any employee or official authorized to enforce this code. The Spencer city manager is hereby authorized to designate employees or officials authorized to enforce this code.

REPEAT OFFENSE: A recurring violation of the same section of this code. (Ord. 358, 5-16-1988; 1991 Code)

1-4A-2: VIOLATIONS, PENALTIES AND ALTERNATIVE RELIEF:

A. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this code:

SCHEDULE OF CIVIL PENALTIES

First offense	Up to \$750.00
Repeat offenses	Up to \$1,000.00

B. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

C. Seeking a civil penalty as authorized in this article does not preclude the city from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief. (Ord. 358, 5-16-1988; 1991 Code; Ord. 501, 9-8-1998; Ord. 705, 7-6-2010)

1-4A-3: CIVIL CITATIONS:

- A. Any officer authorized by the city to enforce this code may issue a civil citation to a person who commits a municipal infraction.
- B. The citation may be served by personal service or by certified mail, return receipt requested.
- C. A copy of the citation shall be sent or delivered to the clerk of the district court.
- D. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - 1. The name and address of the defendant.
 - 2. The name or description of the infraction attested to by the officer issuing the citation.
 - 3. The location and time of the infraction.
 - 4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
 - 5. The manner, location, and time in which the penalty may be paid.
 - 6. The time and place of court appearance.
 - 7. The penalty for failure to appear in court. (Ord. 358, 5-16-1988)

1-4A-4: CRIMINAL CITATIONS:

This article does not preclude a peace officer of the city from issuing a criminal citation for a violation of this code or regulations if criminal penalties are also provided for the violation. (Ord. 358, 5-16-1988; 1991 Code)

1-4A-5: ENFORCEMENT OF PROVISIONS:

This article shall not preclude or limit the authority of the city to enforce the provisions of this code by criminal sanctions or other lawful means. (Ord. 358, 5-16-1988)

CHAPTER 5
CITY COUNCIL ¹

SECTION:

- 1-5-1: Powers
- 1-5-2: Regular Meetings
- 1-5-3: Quorum
- 1-5-4: Special Meetings
- 1-5-5: Control Of Property
- 1-5-6: Election Duties
- 1-5-7: Authority; Duties
- 1-5-8: Rules; Order Of Business

Notes

¹ 1. See also subsection 1-7-1B2 of this title for salary provisions.

1-5-1: POWERS:

All legislative and other powers granted to cities shall be exercised by the council except those conferred upon some other officer by

law or provisions of this code. Neither the council nor the members thereof shall exercise any executive functions, unless expressly conferred by law. (Ord. 4, 12-7-1953)

1-5-2: REGULAR MEETINGS:

Regular meetings of the council shall be held at six thirty o'clock (6:30) P.M. on the first and third Mondays of each month. When a regular meeting falls on a recognized city holiday as listed in the city's personnel policy manual, such regular meeting shall be held at six thirty o'clock (6:30) P.M. on the next following business day. The council may, by motion, cancel or reschedule any regular council meeting. In addition, the council may, by motion, call such additional special council meetings or council committee meetings as deemed appropriate and necessary. (Ord. 4.2, 3-21-1960; Ord. 288, 12-19-1983; 1991 Code; Ord. 587, 7-21-2003; Ord. 648, 10-2-2006)

1-5-3: QUORUM:

Four (4) members of the council shall constitute a quorum for the transaction of business, but two (2) or more members may adjourn from time to time. (Ord. 4, 12-7-1953; 1991 Code)

1-5-4: SPECIAL MEETINGS:

The mayor, or a majority of the council, may call special meetings, by notice to each of the members, personally served, or left at his usual place of residence; of which service, a record shall be made by the clerk. Such notice shall state the time and purpose of such special meeting. (Ord. 4, 12-7-1953)

1-5-5: CONTROL OF PROPERTY:

The council shall have the management and control of the finances and of all property, real and personal, belonging to the city. (Ord. 4, 12-7-1953)

1-5-6: ELECTION DUTIES:

In all city elections, the powers and duties made incumbent upon the board of supervisors at general elections shall be performed by the council. (Ord. 4, 12-7-1953)

1-5-7: AUTHORITY; DUTIES:

The council shall have all the powers and perform all the duties that may be prescribed by the council, the provisions of this code and the laws of the state. (Ord. 4, 12-7-1953; 1991 Code)

1-5-8: RULES; ORDER OF BUSINESS:

The following rules and order of business are hereby officially adopted for the transaction of the business of the council:

PROCEDURE

Rule 1. Time Of Meeting: The regular meetings of the city council shall be called to order at six thirty o'clock (6:30) P.M. on the first and third Mondays of each month, unless a different time is set by motion of the council. If a regularly scheduled city council meeting falls on a recognized city holiday, such meeting shall be held at six thirty o'clock (6:30) P.M. on the next following business day. Notice of any change of convening a regular meeting shall be given to the news media at least twenty four (24) hours in advance of the meeting time. The time of starting a special or adjourned meeting shall be set in the motion scheduling the meeting, in the call by the mayor, or at the request by the necessary number of council members hereinafter provided for calling a special meeting.

Rule 2. Presiding Officer: The mayor, or in his/her absence the mayor pro tempore, shall preside. In the absence of both, the council may appoint a temporary chairperson. The presiding officer shall call the meeting to order, preserve order and decorum, may have persons creating disorder removed from the meeting, and decide all questions of order subject to an appeal to the council. A member called to order shall immediately suspend his/her remarks until permitted by the presiding officer to explain. If there is no appeal the decision of the chair shall be conclusive, but if the member appeals to the council from the decision of the chair, the council shall decide the question without debate.

Rule 3. Quorum: A majority of the council shall constitute a quorum to transact ordinary business, but a smaller number may adjourn from time to time, or any three (3) may compel the attendance of absent members, and upon order therefrom the police chief shall bring in the absentees. Upon order of the chair, the clerk, or in his/her absence the deputy city manager-finance officer, shall call the roll and record the same and preserve it in the minutes of the proceedings. The name of any member entering the meeting after the roll call has been taken shall be recorded in the minutes in the proper chronological order of business. The name of any member leaving the meeting shall be similarly recorded chronologically.

Rule 4. Called Meetings: The mayor may, or upon the request of a majority of the members of the council shall, call a special meeting of the council and set such reasonable time as the circumstances warrant. All calls shall be made by personal notice or by leaving written notice at the residence or business office of the member. The clerk shall record such notice of service in the minute book and each member shall subscribe signature to an acknowledgment of such notice if received.

When a special meeting of the city council shall be called by the mayor, or otherwise, the purpose or object of the meeting shall be named in the call, and no other business except that specified therein shall be transacted at said special meeting.

Rule 5. Order Of Business: Upon the appearance of a quorum the council shall proceed to the business before them. The order of business shall be as follows:

- a. Reading of the minutes of the last meeting and the approval, amendment or correction of the same. When copies of the minutes have been distributed to all council members in advance of the reading, the council may waive the reading and adopt the minutes.
- b. Approving the agenda prepared by the clerk and making any revisions, deletions, or additions, with particular attention to matters raised by letter, petition, or remonstrance.
- c. Hearings and lettings on public improvements shall have precedence, together with resolutions thereon.
- d. Consideration of ordinances.

e. Request of petitions from citizens.

f. Presentation, consideration, and approval of claims; but the motion acting upon claims may specify the disapproval or referral of any claim for further consideration or investigation by a committee or officer.

g. Reports from special committees, and discussion thereon.

h. Adjournment.

Rule 6. Special Meetings: Upon the call to order of a special meeting by the chairperson thereof the clerk shall call roll, and if a quorum is present the council may officially conduct a meeting. The reading of minutes of the previous meeting may be dispensed with, in which case such minutes shall be considered at a subsequent regular meeting and there acted upon. The council may dispense with the consideration of claims and limit the receiving of requests and petitions to those pertinent to the subject of the call or purpose established at a prior adjournment. Upon approving the agenda for the meeting the council shall proceed in accordance therewith and the order of business established therein.

Notice of the time and place of special called meetings shall be given the news media if time permits. Where an emergency prevents the giving of such notice the nature of the emergency shall be stated in the minutes of that meeting.

Rule 7. Meeting To Be Open: Meetings shall be open in compliance with public policy set by state law. However, closed meetings may be held, only in compliance with the applicable provisions of the Iowa Code.

Rule 8. Agenda: The city manager and city clerk shall prepare a written agenda for each regular or special council meeting.

The closing deadline for a request to the clerk by individual citizens or a council member for placing an item on the agenda shall be not less than eighty (80) hours before the convening of the meeting using the agenda. The clerk may decline a request of a citizen subject to an appeal to any council member who may order such item to be entered into the agenda. No person may request to appear on the agenda after opening of the meeting unless the circumstances of the request appear to the mayor or the council on the advice of the city attorney, to be such as to warrant adding thereto the matter so requested, and then only at the time of perfecting the agenda. The tentative agenda shall be dispatched so that it normally will be in the hands of every council member not later than forty eight (48) hours before the start of the regular meeting to which it applies, and posted at the city hall at least twenty four (24) hours before the opening of the meeting. The place of posting shall be officially designated by resolution.

Rule 9. Rules Of Order: "Robert's Rules Of Order, Revised", shall govern wherever a procedure is not specified in these rules.

The foregoing rules may be suspended for a certain meeting or a certain purpose only by the unanimous vote of the council members present at the meeting.

No standing rule or order of the council shall be rescinded or changed without one week's previous notice in writing being given of the proposed change; nor shall any rule be rescinded without a vote of three-fourths ($\frac{3}{4}$) of the members elected to the city council.

Rule 10. Motions: No motion or resolution shall be put to a vote until it has been seconded. When seconded, the motion shall be stated by the mayor or presiding officer before debate. Upon request of the chair or any council member the motion shall be reduced to writing. All resolutions shall be presented in writing. In all cases where a resolution or a motion is entered in the minutes of the meeting the name of the member moving the same and the member making the second shall be entered. Resolutions shall appear in the minutes by title only if the clerk keeps a permanent book of resolutions.

Rule 11. Withdrawal Of Motions: After a motion or resolution is stated by the chair it shall be deemed in the possession of the council, but it may be withdrawn at any time before decision or amendment.

Rule 12. Voting: Voting shall be by "yes" or "no" and shall be recorded by name in the case of ordinances and resolutions and by the number of "yeses" or "noes" in the case of ordinary motions. Whenever a member abstains, his vote shall be recorded as an abstention so that the total vote and abstentions shall equal the number present. At the request of two (2) members the vote of each member on any motion shall be recorded in the minutes. No member shall vote on any question in which he has a conflict of interest as defined by sections 362.5 and 6 of the Iowa Code unless permitted therein and the provisions thereof for determining the voting record shall be followed. An abstention shall be deemed as a "yes" vote except where the member has a conflict of interest, which conflict shall be stated at the time of abstention.

Rule 13. Readings And Amendment Of Ordinances: All proposed ordinances shall have a separate consideration on three (3) different days unless there is a motion to dispense with the second and/or third consideration and a three-fourths ($\frac{3}{4}$) majority of the council shall so approve. Actual reading of the ordinance shall not be required if written copies are available or unless two (2) or more members request it. An ordinance may be amended after first or during second consideration and before voting the ordinance for passage on second consideration. After placing the ordinance on third and final consideration or voting for dispensing with the second and/or third consideration, the ordinance may not be amended but shall be voted on for final passage unless tabled, postponed, or referred to a committee. Any proposed ordinance not voted on for final passage must be returned to second consideration status if it is to be amended. When a question is postponed indefinitely, it shall not be again introduced or acted upon by the council for the ensuing two (2) months.

On motion to "strike out and insert" the paragraph to be amended shall first be read as it stands, the words proposed to be struck out, and those to be inserted, and finally the paragraph as it would stand if so amended.

A motion simply to lay a question on the table is not debatable but a motion to lay on the table and publish, or any other condition, is subject to amendment and debate.

Rule 14. Motion To Reconsider: A motion may be reconsidered at any time during the same meeting, or at the first meeting held thereafter. A motion for a reconsideration being once made, and decided in the negative, shall not be renewed.

A motion to reconsider must be made and seconded by members who voted in the majority, by those on the prevailing side, or by

those who were absent and did not vote upon the question to be reconsidered.

No question shall be reconsidered more than once, nor shall a vote to reconsider be reconsidered.

ORGANIZATION

Rule 15. Committees: The council may provide for the creation of standing or special committees of council members and may provide for the jurisdiction, authority and operation of such committees as the council deems appropriate.

The mayor shall appoint the members and designate the chairperson of all committees so created. (1991 Code; Ord. 488, 1-19-1998; Ord. 587, 7-21-2003; Ord. 648, 10-2-2006; Ord. 698, 3-1-2010)

CHAPTER 6

MAYOR ¹

SECTION:

1-6-1: Presiding Officer

1-6-2: Executive Officer

1-6-3: Office

1-6-4: Official Signature

1-6-5: Approval Of Ordinances And Resolutions

1-6-6: Filing Contracts

1-6-7: Handling Funds

1-6-8: Inspection Of Records

1-6-9: Additional Powers

1-6-10: Appoint Advisory Committees

1-6-11: Appointment Of Mayor Pro Tem

1-6-12: Appointment/Dismissal Of Chief Of Police

Notes

- ¹ 1. See also subsection 1-7-1A of this title.

1-6-1: PRESIDING OFFICER:

The mayor is the chief executive officer of the city and presiding officer of the council. Except for the supervisory duties which have been delegated by law to the city manager, the mayor shall supervise all city officers and departments. (Ord. 699, 3-1-2010)

1-6-2: EXECUTIVE OFFICER:

The mayor shall be the chief executive officer, and it shall be his duty to enforce all provisions of this code. He shall be a conservator of the peace and, within the city limits, shall have the powers conferred upon sheriffs to suppress disorder. He may, upon view, arrest anyone guilty of a violation of any provisions of this code, or of any crime under the law of this state. He shall supervise the conduct of all officers, shall examine the grounds of complaints made against them, and cause all neglect or violation of duty to be corrected, or report the same to the proper tribunal that they may be dealt with as provided by law. (Ord. 162, 8-20-1973)

1-6-3: OFFICE:

The mayor shall keep an office in space provided for such office in the city hall building. The mayor shall devote such time as is necessary to perform the duties of said office and to promote the welfare of the city of Spencer including, but not restricted to, all of the duties set forth in this chapter and in the code of Iowa. (Ord. 162, 8-20-1973)

1-6-4: OFFICIAL SIGNATURE:

The mayor shall sign all commissions, licenses and permits granted or issued by the authority of the council, authenticate all ordinances in the ordinance record book and do such other acts as may require his signature or certificate. (Ord. 5, 12-7-1953)

1-6-5: APPROVAL OF ORDINANCES AND RESOLUTIONS:

The mayor may sign, veto or take no action on an ordinance or resolution passed by the council. If the mayor takes no action a resolution becomes effective fourteen (14) days after the date of passage and an ordinance becomes effective when published, but not sooner than fourteen (14) days after the date of passage. If the mayor desires to veto an ordinance or resolution, he shall call a special meeting of the council within fourteen (14) days of the date of passage of the resolution or ordinance, unless a regular meeting is to be held within that time. At said meeting the mayor shall explain the reasons for the veto in a message to the council. The council may adopt a measure, notwithstanding the mayor's veto, by a majority vote of five (5) council members, accomplished within thirty (30) days of the veto. (Ord. 5, 12-7-1953; 1991 Code)

1-6-6: FILING CONTRACTS:

In all cases where contracts are executed, either by the mayor, a committee or other person authorized, it shall be the duty of the person executing the contract on the part of the city to immediately file such contract with the clerk and cause to be delivered to the other contracting party a copy thereof, if such party so requires. (Ord. 5, 12-7-1953)

1-6-7: HANDLING FUNDS:

The mayor shall at no time appropriate any money, warrants or property in his possession belonging to the city for the payment of his salary, or for any other purpose, but he shall pay over monthly to the clerk all money or warrants coming into his hands belonging to the city and take the clerk's receipt for the same. (Ord. 5, 12-7-1953)

1-6-8: INSPECTION OF RECORDS:

All books and records required by the provisions of this code to be kept by the mayor shall at all times be open to the inspection of the public. (Ord. 5, 12-7-1953)

1-6-9: ADDITIONAL POWERS:

The mayor shall have such other powers and perform such other duties as may be provided by the council, the provisions of this code or the laws of the state. (Ord. 5, 12-7-1953; 1991 Code)

1-6-10: APPOINT ADVISORY COMMITTEES:

The mayor may, from time to time, by and with the approval of the council, appoint advisory committees for the purpose of obtaining information and making recommendations to the council of the city. (Ord. 12, 12-17-1969, eff. 1-1-1970)

1-6-11: APPOINTMENT OF MAYOR PRO TEM:

The mayor shall appoint a council member as mayor pro tem. The mayor pro tem is vice president of the council. When the mayor is absent or unable to act, the mayor pro tem shall perform the mayor's duties, except that the mayor pro tem may not appoint, employ, or discharge officers or employees without the approval of the council. Official actions of the mayor pro tem when the mayor is absent or unable to act are legal and binding to the same extent as if done by the mayor. The mayor pro tem retains all the powers of a council member. (Ord. 699, 3-1-2010)

1-6-12: APPOINTMENT/DISMISSAL OF CHIEF OF POLICE:

The mayor shall appoint and dismiss the chief of police, subject to the consent of the majority of the council. (Ord. 699, 3-1-2010)

CHAPTER 7

CITY OFFICERS, BOARDS AND COMMISSIONS

SECTION:**1-7-1: Elected Officials****1-7-2: Appointed Officials****1-7-3: Boards And Commissions****1-7-4: General Provisions****1-7-1: ELECTED OFFICIALS:****A. Mayor 1 :**

1. Election Of Mayor: A Mayor shall be elected at each regular Municipal election. The candidate receiving the most votes for the office shall be declared elected. All tie votes shall be decided by lot. The Mayor shall hold office for two (2) years and until a successor is elected and qualified.

2. Qualifications: All candidates for the Office of Mayor shall be residents of the City. If the Mayor ceases to be a resident of the City, the office shall become vacant and the vacancy shall be filled as provided by law.

3. Compensation: The Mayor shall receive an annual compensation of ten thousand four hundred dollars (\$10,400.00), payable in bi- weekly installments of four hundred dollars (\$400.00). The Mayor shall also receive quarterly (on April 1, July 1, October 1, and January 2) a local mileage expense reimbursement payment for use of the Mayor's personal vehicle on City business in the amount of one hundred seventy five dollars (\$175.00) per quarter. This reimbursement is to cover local (Clay County) personal auto use only. The Mayor shall be entitled to request and receive reimbursement for out of County travel pursuant to City policy. The Mayor shall receive no other compensation or employment benefits, except reimbursement of expenses incurred in performance of his duties as provided by ordinance or City policy.

B. Council Members 2 :

1. Officers Elected: The membership of the Council shall be composed of one Councilman from each ward and two (2) Councilmen at large to be elected for terms of office of four (4) years. At each regular Municipal election, there shall be elected one Councilman at large and one Councilman from each ward in which the term of Office of the Councilman then representing the same is expiring at twelve o'clock (12:00) noon of the second secular day in January following such election. The term of Office of each Councilman shall be four (4) years.

2. Compensation: Council members shall receive annual compensation of four thousand eight hundred thirty dollars (\$4,830.00), payable in quarterly installments of one thousand two hundred seven dollars fifty cents (\$1,207.50). Council members shall also be paid quarterly the amount of one hundred dollars (\$100.00) as reimbursement for local (Clay County) use of the Council

member's vehicle for City business. This reimbursement is to cover local use of the Council member's vehicle on City business only. Council members may request and receive reimbursement for out of County travel on City business in accordance with City policy.

C. Hospital Board Of Trustees **3** :

1. Members Elected; Term: Five (5) Board of Trustees members shall be elected by the qualified voters of the City for the purpose of managing any hospital or hospitals that the City may now and hereafter own. The term of Office of the Trustees shall be a period of four (4) years. Terms of Office of Trustees elected pursuant to general election shall begin at twelve o'clock (12:00) noon on the first day in January which is not a Sunday or a legal holiday. Terms of Office of Trustees shall extend to twelve o'clock (12:00) noon of the first day of January which is not a Sunday or legal holiday or until successors are elected and qualified.

2. Compensation: No Trustee shall receive any compensation for his services but may receive reimbursement for any necessary cash expense actually incurred while acting as such Trustee, provided an itemized statement of all such expenses and money paid out shall be made under oath by each of the Trustees making claim therefor, and filed with the Secretary and allowed and paid only by an affirmative vote of the full board.

3. Residence Requirement: A candidate for hospital Trustee must be a resident of the hospital facility service area within the boundaries of the State at the time of the election at which the person's name appears on the ballot.

4. Vacancies: Vacancies on the Board of Trustees may, until the next general election, be filled by appointment by the remaining members of the Board of Trustees, unless within fourteen (14) days after the appointment is made, there is filed with the City Clerk a petition which requests a special election to fill the vacancy. Trustees who are appointed to fill a vacancy or who are elected at special elections shall serve the unexpired terms of office until their successors are elected or qualified. (Ord. 3.2, 6-3-1963; Ord. 185, 10-20-1975; Ord. 255, 5-10-1982; Ord. 267, 12-20-1982, eff. 1-1-1984; Ord. 327, 1-6-1986; 1991 Code; Ord. 403, 8-5-1991; Ord. 449, 10-18-1993; Ord. 467, 10-2-1995; Ord. 482, 10-6-1997, eff. 1-1-1998; Ord. 591, 9-15-2003, eff. 1-1-2004; Ord. 626, 6-6-2005; Ord. 635, 10-3-2005; Ord. 659, 9-4-2007, eff. 1-1-2008; Ord. 807, 11-7-2016; Ord. 823, 10-16-2017)

Notes

- 1** 1. See also chapter 6 of this title.
- 2** 2. See also chapter 5 of this title.
- 3** 1. See also title 2, chapter 7 of this Code.

1-7-2: APPOINTED OFFICIALS:

A. Building And Zoning Officer **1** : The Building and Zoning Officer (combined) shall be appointed by the Council.

B. Cemetery Superintendent **2** : The City Council shall employ a suitable person to act as Cemetery Superintendent, who shall be responsible for the management and supervision of the Municipal cemetery grounds, equipment and property, as provided by this code, and who shall at all times be subject to the direction of the city parks and recreation director.

C. City Attorney **3** ; Assistant:

1. Appointment: The city attorney shall be appointed by the council.

2. Compensation: The city attorney shall be paid an annual retainer as fixed from time to time by resolution of the city council payable in quarterly installments in January, April, July and October of each year. The city attorney's retainer shall be compensation for attendance upon the meetings of the council, for providing oral and routine legal advice to city officers and administrators and in retention of the legal services of the city attorney to the exclusion of any representation conflicting with the city's interests. For all legal services not covered by the retainer, including written opinions, preparation of contracts, documents, resolutions, ordinances and agreements, representation of the city and its officers and administrative staff in their official capacities and for appearing, prosecuting and defending the city in any litigation or administrative proceedings in which the city may be involved, the city attorney shall receive reasonable and customary per diem fees.

3. Assistant City Attorney: The city council may also appoint an assistant city attorney. The assistant city attorney shall perform the duties of the city attorney as directed and delegated by the city attorney or the mayor and council, subject to the supervision of the city attorney. The assistant city attorney shall be compensated in the same manner as the city attorney; except, that no retainer for meeting attendance should be paid.

D. City Clerk **4** :

1. Appointment: The city clerk shall be appointed by the council.

2. Bond: The bond for the city clerk shall be in the amount of fifty thousand dollars (\$50,000.00).

E. City Manager **5** ; Deputy:

1. City Manager:

a. Appointment: The city manager for the city shall be appointed by a majority vote of all members of the council, shall hold office at the pleasure of the council and shall be subject to removal and termination by majority vote of all members of the council, and subject to the provisions and protections of section 372.4 of the Iowa Code.

b. Qualifications: The city manager shall be a person competent by education and/or experience to perform the duties imposed upon such position. The city manager shall:

(1) Possess a college degree in public administration and have three (3) years of experience as a city manager or shall have a minimum of eight (8) years' practical experience as a city manager.

(2) Following appointment, reside within the corporate limits of the city.

(3) Devote full time to the diligent and faithful performance of duties hereunder and shall not, during the term as city manager, engage in any other employment or self-employment activities or endeavors nor hold any other office or position, except with the approval of the council, by motion.

(4) Not, during the term as city manager, hold any position as officer or director of any "for profit" organization which does business or carries on any activities in the city, nor shall the city manager own more than five percent (5%) of the outstanding stock of any corporation which does business or carries on activities within the city.

2. Deputy City Manager-Finance Officer: The council may appoint and designate a deputy city manager and finance officer who shall assist and support the city manager in the performance of the manager's duties, who shall temporarily perform the obligations and exercise the authority of the city manager in the absence of the city manager, and who shall monitor the overall financial position and financial functions of the city, in coordination with the city manager and the city clerk.

F. Electrical Inspector:

1. Appointment, Qualifications And Duty: The electrical inspector shall be appointed by the city council and shall:

- a. Have knowledge of the standard materials and methods used in electrical work.
- b. Have administrative ability adequate for the performance of his or her duties.
- c. Know and understand the approved methods of construction with regard to safety to persons and property, the statutes of the state relating to electrical work, and any order, rules or regulations issued by authority of the statutes and of the national electrical code, as recommended by the National Fire Protection Association.

d. Administer and enforce applicable statutes, ordinance, codes and regulatory provisions.

e. Make such inspections and issue such permits as are required.

2. Association Membership: The electrical inspector shall hold membership in the International Association of Electrical Inspectors. With the approval of the city manager, the electrical inspector shall serve on any committee of this association to which he or she may be appointed. Membership dues, assessments and necessary expenses in connection with such activities shall be paid by the city.

3. Conflict Of Interest: The electrical inspector shall not engage in the business of the sale, installation or maintenance of electrical equipment, either directly or indirectly, and the electrical inspector shall have no financial interest in any entity engaged in such business in the City.

G. Fire Chief 6 :

1. Selection And Employment: The Chief of the Fire Department shall be selected and employed by the City Council.

2. Hours And Compensation: The Chief of the Fire Department may be either a full time or part time employee or a volunteer, at the discretion of the Council, and the working hours and compensation of the Chief of the Fire Department shall be established by Council resolution.

H. Plumbing Inspector:

1. Appointment, Qualifications And Duties: The plumbing inspector shall be appointed by the City Council and shall:

- a. Have knowledge of the standard materials and methods used in plumbing work.
- b. Have administrative ability adequate for the performance of his or her duties.
- c. Know and understand the approved methods and materials required in the installation or repair of plumbing, the construction and connection of sewers and drains, and connections of any gas, water or steam heating equipment. The plumbing inspector shall have a working knowledge of applicable Plumbing Codes and regulations.

d. Administer and enforce applicable statutes, ordinances, codes and regulatory provisions.

e. Make such inspections and issue such permits as are required.

2. Conflict Of Interest: The plumbing inspector shall not engage in the business of the sale, installation, connection, repair or maintenance of any plumbing, sewers, drains, or gas, water or steam heating apparatus, either directly or indirectly, and the plumbing inspector shall have no financial interest in any entity engaged in such activity in the City.

I. Chief Of Police 7 : The Mayor shall appoint a Chief of Police.

J. Public Works Director 8 : The Public Works Director shall be appointed by the Council.

K. Parks And Recreation Director: The Parks and Recreation Director shall be appointed by the Council.

L. Planning Director: The Planning Director shall be appointed by the City Council.

M. Director Of Golf Operations: The Director of Golf Operations shall be appointed by the Council. (Ord. 8, 12-7-1953; Ord. 19, 12-7-1953; Ord. 24, 12-7-1953; Ord. 28, 12-7-1953; Ord. 63, 12-7-1953; Ord. 65.1, 12-7-1953; Ord. 15.1, 11-7-1955; Ord. 3.1, 6-6-1960; Ord. 10.2, 9-25-1961; 1969 Code; Ord. 166, 1-21-1974; Ord. 189, 3-12-1976; Ord. 248, 11-16-1981; Ord. 255, 5-7-1979; Ord.

271, 1-3-1983; Ord. 295, 5-21-1984, eff. 6-1-1984; Ord. 309, 1-21-1985; Ord. 327, 1-6-1986; Ord. 336, 5-27-1986; Ord. 387, 2-5-1990; 1991 Code; Ord. 401, 7-1-1991; Ord. 413, 4-20-1992, eff. 7-1-1992; Ord. 424, 8-17-1992; Ord. 426, 9-8-1992; Ord. 508, 1-4-1999; Ord. 533, 7-17-2000; Ord. 666, 6-2-2008; Ord. 693, 11-2-2009; Ord. 720, 6-20-2011; Ord. 850, 9-16-2019)

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Notes

1. See also section 8-2-1 of this Code.
2. See also section 5-4-4 of this Code.
3. See also article D of this chapter.
4. See also article A of this chapter.
5. 1. See also article B of this chapter.
6. 1. See also section 6-2-8 of this Code.
7. 1. See also title 6, chapter 1, article A of this Code.
8. 2. See also article E of this chapter.

1-7-3: BOARDS AND COMMISSIONS:

A. Airport Board Of Trustees ¹ :

1. Appointment: The Board of Trustees of the Spencer Municipal Airport, hereinafter referred to as "the Board", shall consist of five (5) regular members and may include one ex officio member. The five (5) resident Board members shall be appointed by the Mayor with the approval of the Council. One ex officio member may be appointed by the County Board of Supervisors. The ex officio member shall not have voting rights.

2. Qualifications: The five (5) resident Board members shall be residents of the City. The nonresident member shall be a citizen and resident of Clay County, but not a resident of any incorporated city within the County.

3. Term: The term of office shall be four (4) years.

4. Compensation: Board members shall receive no compensation for their services; however, each Board member shall be reimbursed for actual expenses incurred by him in the performance of his duties. Expenses of resident members shall be approved by the City Council and paid by the City Clerk. Expenses of the nonresident County member shall be approved and paid by the Board of Supervisors.

B. Cable Television Commission: Repealed.

C. Civil Service Commission ² :

1. Appointment: Subject to the approval of the Council, the Mayor shall appoint three (3) Civil Service Commissioners.

2. Term: The term of office shall be four (4) years.

D. Firemen's Retirement Board Of Trustees: Repealed.

E. Policemen's Retirement Board Of Trustees: Repealed.

F. Compensation Advisory Board ³ :

1. Members: The Compensation Advisory Board shall consist of seven (7) members; including one member from each of the five (5) established wards of the City and two (2) at large.

2. Term: The term of office of board members shall be for a period of six (6) years which shall commence on July 1, and end on June 30.

3. Appointment: Members from each of the five (5) wards shall be nominated by the Council member elected from the respective ward. The Mayor shall appoint ward representatives from those nominees submitted by the respective ward Council members. The Mayor shall also appoint the two (2) at large members, with the approval of the Council.

G. Electrical Board; Electrical Appeal Board:

1. Electrical Board ⁴ :

a. Member; Qualifications: The electrical board consists of three (3) members. Each member of the electrical board shall be a resident of Clay County. One member shall be a representative of the public; one member shall be a licensed master electrician authorized to perform electrical work in the city of Spencer; and one member shall be a licensed electrician authorized to perform electrical work in the city of Spencer. The members of the electrical board shall be appointed by the council. The city electrical inspector shall serve as an ex officio member of the board, but shall have no vote.

b. Term: The term of each member of the electrical board shall be a period of four (4) years.

2. Electrical Appeal Board 5 :

a. Appointment: The electrical appeal board shall be one and the same as the electrical board. The mayor shall also appoint the alternate board members with the same power as the regular members, to so serve in the absence or incapacity of any regular appointed board member.

H. Golf Course Board 6 :

1. Appointment: The Spencer Municipal Golf Course board shall consist of five (5) members. The members shall be appointed by the mayor with the approval of the council.

2. Qualifications: No member of the board shall be a city employee, performing duties at or related to the Spencer Municipal Golf Course.

3. Term: The regular terms of board members shall be a period of four (4) years.

I. Library Board Of Trustees 7 :

1. Appointment: The board of trustees of the Spencer Municipal Library, hereinafter referred to as the "board", shall consist of nine (9) members. All board members are to be appointed by the mayor with the approval of the council.

2. Term: Appointments to the board shall be for a period of six (6) years. Each term shall commence on July 1. Appointments shall be made every two (2) years of one-third ($\frac{1}{3}$) of the total number as near as possible, to stagger the terms.

3. Vacancies: The position of any trustee shall be vacant if he moves permanently from the city; or if he is absent from six (6) consecutive regular meetings of the board, except in the case of sickness or temporary absence from the city.

J. Planning And Zoning Commission 8 :

1. Appointment: The city planning and zoning commission shall consist of seven (7) members qualified by knowledge or experience to act in matters pertaining to the development of a city plan and who shall not hold any elective office in municipal government. The members of the commission shall be appointed by the mayor and subject to the approval of the council.

2. Term: The term of office of the commission members shall be five (5) years.

K. Plumber's Examining Board 9 :

1. Appointment: The council shall appoint a plumber's examining board, hereinafter referred to as the "board", to consist of three (3) members. One member shall represent the public, one member shall be a licensed master plumber and one member shall be a licensed journeyman plumber. The city plumbing inspector shall serve as an ex officio member of the board having no vote.

2. Term: The term of each member of the board shall be a period of four (4) years.

L. Utilities Board Of Trustees 10 :

1. Appointment: The Spencer municipal utilities board of trustees, hereinafter referred to as the "board", shall consist of five (5) members, who shall be appointed by the mayor with the approval of the council. In making and approving appointments, the mayor and council shall consider the appointee's present and past involvement in activities in the Spencer community.

2. Term: The term for members of the board shall be six (6) years, commencing on July 1 and ending on June 30.

3. Compensation: The board members shall receive a fee of twenty five dollars (\$25.00) for each regular or special meeting of the Spencer utilities board of trustees that they attend. No such fee shall be paid for attendance at committee meetings or any other meetings, except regular and special meetings of the Spencer utilities board.

M. Zoning Board Of Adjustment 11 :

1. Appointment: The zoning board of adjustment, hereinafter referred to as the "board", shall consist of seven (7) members appointed by the mayor, subject to confirmation by the council.

2. Term: The term of office shall be five (5) years.

N. Park Board 12 :

1. Members; Term: The park board shall consist of five (5) members, all residents of the city, to be appointed by the mayor with the approval of the council for a term of six (6) years.

2. Compensation: Park board members shall receive no compensation for their services. However, each board member shall be reimbursed for actual expenses incurred in the performance of their duties.

O. Historic Preservation Commission 13 :

1. Appointment: The Historic Preservation Commission shall consist of seven (7) members to be appointed by the Mayor with the approval of the Council. In making appointments to the commission, members shall demonstrate a positive interest in historic preservation and possess interest or expertise in architecture, history, architectural history, planning, prehistoric or historic archaeology, folklore, cultural anthropology, curation, conservation, landscape architecture or related disciplines.

2. Term: The term of members shall be for three (3) years.

3. Compensation: Historic Preservation Commission members shall receive no compensation for their services. However, each commission member shall be reimbursed for actual expenses incurred in the performance of his or her duties.

4. Officers: At its first meeting, and at the first meeting after July 1 of each year, the commission shall elect a Chairman and Vice Chairman and shall appoint a Secretary. The persons so elected or appointed shall continue to serve until successors are elected or appointed and have assumed the office.

P. Grow Spencer Commission:

1. Appointment: The Grow Spencer Commission shall consist of ten (10) members to be appointed by the Mayor with the approval of the Council. The members shall include a student of Iowa Lakes Community College who attends the Spencer Campus and one Spencer High School student. Other members shall be residents of the City of Spencer, owners of property in the City of Spencer, or involved in a commercial activity in the City of Spencer.

2. Term: The term of commission members shall be two (2) years.

3. Compensation: Commission members shall receive no compensation for their services. However, each commission member shall be reimbursed for actual expenses incurred in the performance of his or her duties as approved by a majority of the Council. (Ord. 13; Ord. 14, 12-7-1953; Ord. 74, 12-7-1953; Ord. 180, 8-18-1975; Ord. 203, 1-3-1977; Ord. 221, 11-27-1978; Ord. 272-272A, 1-17-1983; Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 298, 6-4-1984; Ord. 304, 8-6-1984; Ord. 372, 6-5-1989; 1991 Code; Ord. 403, 8-5-1991, eff. 1-1-1992; Ord. 428, 10-19-1992; Ord. 520, 11-16-1999; Ord. 535, 8-7-2000; Ord. 563, 1-7-2002; Ord. 564, 1-7-2002; Ord. 586, 7-21-2003, eff. 7-21-2003; Ord. 641, 1-3-2006; Ord. 698, 3-1-2010; Ord. 702, 5-3-2010; Ord. 707, 7-6-2010; Ord. 801, 4-4-2016; Ord. 827, 3-5-2018; Ord. 828, 4-16-2018)

Notes

- 1 3. See also title 2, chapter 9 of this Code.
- 2 1. See also title 2, chapter 3 of this Code.
- 3 2. See also title 2, chapter 4 of this Code.
- 4 1. See also section 2-13-9 of this Code.
- 5 2. See also section 8-3-15 of this code.
- 6 3. See also title 2, chapter 11 of this code.
- 7 4. See also title 2, chapter 6 of this code.
- 8 1. See also title 2, chapter 1 of this code.
- 9 2. See also title 2, chapter 14 of this code.
- 10 3. See also title 2, chapter 5 of this code.
- 11 4. See also title 2, chapter 2 of this code.
- 12 1. See also title 2, chapter 8 of this code.
- 13 2. See also title 2, chapter 15 of this Code.

1-7-4: GENERAL PROVISIONS:

A. Elections 1 :

1. The regular Municipal election shall be held on the Tuesday next after the first Monday in November of each odd numbered year, and such election shall be conducted in the manner provided by law for general elections.

2. The candidates receiving the most votes for each office shall be determined elected. All tie votes shall be decided by lot.

B. Qualifications: All officers shall qualify by taking and subscribing to an oath to support the Constitution of the United States and of the State and the provisions of this Code.

C. Bonds; Employee Fidelity Insurance:

1. The City Clerk and Deputy City Manager-Finance Officer shall be required to obtain and maintain, at City expense, a public official's bond conditioned upon the faithful and honest performance of all duties pertaining to their office, in the amount of fifty thousand dollars (\$50,000.00).

2. The City shall purchase and maintain insurance or bond conditioned upon the faithful and honest performance of duties and full accounting of all funds covering each employee, officer, commissioner or board member of the City in the amount of ten thousand dollars (\$10,000.00) per person.

3. In the event that such bond or insurance coverage is not maintained for an employee, officer, commissioner or board member, the Council may declare the position vacant and proceed as in other cases of vacancy.

4. The foregoing provisions concerning public official bonds and employee fidelity insurance shall not apply to the employees, officers, commissioners or trustees of the Spencer Municipal Utilities or the Spencer Municipal Hospital; who shall be governed by such separate resolutions as may be adopted by their governing boards.

D. Residency Requirement: All elected and appointed officers, commissioners and board members of the City shall be residents of the City. If such person ceases to be a resident during their term, their position shall automatically become vacant. If the position is elective, the vacancy shall be filled as provided by State law. If the position is appointive, the vacancy shall be filled in the same manner as original appointment was made. Persons appointed on or before December 31, 1988, who become nonresidents of the City may complete their term, but shall not be eligible for reappointment.

The foregoing residency requirements shall not apply to members of the Spencer Hospital Board of Trustees, who must be residents of the hospital facility service area, nor to members of the Spencer Municipal Utilities Board of Trustees.

E. Resignation; Reappointment: No person who has resigned or vacated any City position shall be eligible for that office during the remainder of the term, when during the term the emoluments of such office have been increased.

F. Mileage: Each City officer or employee required to drive their personal automobile on City business shall be entitled to claim reimbursement at a rate per mile as determined by the officer's or employee's supervising board or Council for actual and necessary driving in pursuit of City business. Verified and itemized claims for mileage reimbursement shall be filed monthly and shall indicate the name of the claimant, their official capacity, the number of miles driven, and any other expenses actually and necessarily incurred on City business. Such claims shall be paid only upon approval of the City Council or board with jurisdiction over the officer or employee.

G. Gifts: The receipt and reporting of gifts received by or on behalf of City officers and employees is governed by the provisions of chapter 68B of the Code of Iowa. To the extent applicable to the City, those provisions are hereby incorporated and adopted as part of this Code.

H. Reserved.

I. Records; Property: All City officers, commissioners or board members, upon leaving office, shall deliver to the City Clerk all books, papers, records and documents pertaining to their office, and other property of the City in their possession.

J. Delay In Appointment: If any appointment is not made at the time required in this chapter, it shall be made as soon as is reasonably possible thereafter.

K. Appointment To Fill Vacancy: Any appointment made to fill a vacancy shall be for the balance of the unexpired term, except a vacancy on the City Council, which shall be governed by the applicable provisions of section 372.13 of the Iowa Code.

L. No Compensation; Expenses: Unless compensation is specifically provided, elected and appointed officials shall serve without pay. However, each elected or appointed officer, commissioner or board member shall be reimbursed for expenses actually and necessarily incurred in the performance of official duties. Reimbursement shall be paid only upon approval of the Governing Board or commission, or by the Council.

M. Term Or Compensation Not Specified: If the term of office or compensation is not specified in this Code, the term shall be indefinite, at the pleasure of the Council, and the compensation shall be as the Council shall establish by resolution.

N. Age: All City elected or appointed officers, commissioners or board members shall have attained the age of eighteen (18) years.

O. Commencement Of Term: Unless otherwise provided, terms of office shall commence on July 1 and end on June 30.

P. Confirmation Of Existing Appointees: Incumbent City appointed officers, commissioners, and board members serving on the effective date of the adoption of this Code are hereby confirmed for their term as established in the records of the City Clerk. (Ord. 3, 12-7-1953; Ord. 28, 12-7-1953; Ord. 3.2, 6-3-1963; Ord. 185, 10-20-1975; Ord. 237, 10-13-1980; Ord. 352, 10-5-1987; Ord. 366, 10-17-1988; Ord. 372, 6-5-1989; 1991 Code; Ord. 436, 3-15-1993; Ord. 446, 7-6-1993; Ord. 641, 1-3-2006; Ord. 698, 3-1-2010; Ord. 767, 7-7-2014)

Notes

1. See also chapter 8 of this title.



ARTICLE A. CITY CLERK

SECTION:

1-7A-1: Seal

1-7A-2: Custody Of Books

1-7A-3: Powers And Duties Of Clerk

1-7A-4: Deposit Of Public Funds

1-7A-5: Other Powers

Notes

1. See also subsection 1-7-2D of this chapter.

1-7A-1: SEAL 1 :

The Clerk shall keep the Corporate Seal of the City in his charge and attach the same to all orders, certificates or documents which it may be necessary or proper to authenticate. (Ord. 7, 12-7-1953; Ord. 248, 11-16-1981; Ord. 819, 6-5-2017)

Notes

2. See also section 1-10-1 of this title.

1-7A-2: CUSTODY OF BOOKS:

The Clerk shall have the custody of the vault and shall safely keep all records, resolutions and orders of the Council, all contracts, documents or papers in which the City is a party in interest, all original drafts of ordinances and bylaws, all reports of the various officers who may be required to file reports of their official acts, all other papers that may come into his hands as such officer. (Ord. 7, 12-7-1953; Ord. 248, 11-16-1981)

1-7A-3: POWERS AND DUTIES OF CLERK:

- A. The Clerk shall attend all regular and special Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.
- B. The Clerk shall record each measure taken by the Council, stating where applicable whether the Mayor signed, vetoed, or took no action on the measure and what action the Council made upon the Mayor's veto.
- C. The Clerk shall cause to be published all ordinances and amendments enacted by the City. The Clerk shall authenticate all such measures except motions with his signature, certifying the time and place of publication when required.
- D. The Clerk shall maintain copies of all effective City ordinances and codes for public use.
- E. The Clerk shall publish notice of public hearings, elections, and other official actions as required by State and City laws.
- F. The Clerk shall certify all measures establishing any zoning district, building lines, of fire limits, and a plat showing each district, lines or limits to the Recorder of the County containing the affected parts of the City.
- G. The Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.
- H. Following Council adoption of the budget, the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors.
- I. The Clerk shall balance all funds with the finance officer at the end of each month.
- J. The Clerk shall prepare the annual public report, publish it, and send a certified copy to the State Auditor and other State officers as required by law.
- K. The Clerk shall maintain all City records as required by law.
- L. The Clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.
- M. The Clerk shall furnish upon request to any Municipal officer a copy of any record, paper or public document under his control when it may be necessary to such officer in the discharge of his duty. He shall furnish a copy to any citizen when requested upon payment of the fee set by Council resolution.
- N. The Clerk, or his designee, shall attend all meetings of committees, boards and commissions of the City except for the meetings of the Spencer Municipal Utilities Board of Trustees, the Spencer Library Board and the Spencer Municipal Hospital Board. He shall record and preserve a correct record of the proceedings of such meetings.
- O. The Clerk shall keep and file all communications and petitions directed to the City Council or to the City generally. He shall endorse thereon the action of the City Council taken upon matters considered in such communications and petitions.
- P. The Clerk shall issue all licenses and permits approved by the Council, and keep a record of licenses and permits issued which shall show date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.
- Q. The Clerk shall inform all persons appointed by the Mayor or City Council to offices in the Municipal government of their position and the time at which they shall assume the duties of their office.
- R. The Clerk shall compile and preserve a complete record of every City election, regular or special, and perform duties required by law or ordinance of the City Clerk in regard to elections.
- S. The Clerk shall draw all warrants for the City upon the vote of the Council.

T. The Clerk shall show on every warrant the fund on which it is drawn and the claim to be paid.

U. The clerk shall keep a warrant record in a form, approved by the council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant is issued. (Ord. 248, 11-16-1981; 1991 Code; Ord. 693, 11-2-2009)

1-7A-4: DEPOSIT OF PUBLIC FUNDS:

The clerk shall deposit the funds of the city coming into the clerk's hands in accordance with the provisions of this code and the Iowa Code. (Ord. 693, 11-2-2009)

1-7A-5: OTHER POWERS:

The clerk shall have such other powers and perform such other duties as may be provided by the council, the provisions of this code, or the laws of the state. (Ord. 7, 12-7-1953; Ord. 248, 11-16-1981; 1991 Code)

ARTICLE B. CITY MANAGER

SECTION:

1-7B-1: Purpose

1-7B-2: Objectives

1-7B-3: Duties

1-7B-4: Council's Retained Powers

1-7B-5: Mayor's Retained Powers

1-7B-6: Exceptions

1-7B-7: Council Relations

Notes

1. See subsection 1-7-2E of this Chapter.

1-7B-1: PURPOSE:

The purpose of this Article is to provide for a City Manager for the City. (Ord. 336, 5-27-1986; 1991 Code)

1-7B-2: OBJECTIVES:

The general goals and objectives of establishing a City Manager for the City are to:

- Provide for the efficient and effective management of all facets of Spencer City government under the control and jurisdiction of the City Council.
- Provide optimum coordination, communication, and cooperation between and among City departments, boards and commissions and City staff under the control and jurisdiction of the Spencer City Council.
- Promote efficient, fair and equitable personnel management and administration.
- Support and assist retail, industrial, and other economic development.
- Provide for the systematic and orderly flow of information to and from the Council, its department heads and staff and citizens of the community. (Ord. 336, 5-27-1986; Ord. 480, 7-7-1997)

1-7B-3: DUTIES:

The duties of the City Manager shall be as follows:

- Supervise enforcement and execution of all City ordinances and resolutions and applicable State and Federal laws and regulations within the City.
- Attend all meetings of the Council unless excused by the Mayor or majority of the Councilmembers.
- Recommend to the Council such measures as may be necessary or expedient for the good government and welfare of the City.
- Generally supervise and direct the administration of the City government.
- Supervise and conduct the business affairs of the City and, in conjunction with the City Clerk, cause accurate records to be kept by modern and efficient accounting methods.
- Supervise the performance of all contracts for work to be done for the City, supervise all purchases of material and supplies and ensure that such material and supplies are received and are of the quality and character called for by the contract.
- Supervise the construction, improvement, repair, maintenance and management of all City properties, capital improvements, and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.

H. Be directly responsible to the Council for the administration of the City as directed by the Council. All City departmental administration requiring the attention of the Council shall be brought before the Council by the Manager. Council involvement in administration initiated by the Council must be coordinated through the Manager.

I. Supervise and direct the official conduct of all officers, departments and employees of the City, specifically including, but not limited to, police, fire, streets, sewers, water pollution control facilities, parks, cemeteries, airport, library, Municipal golf course, solid waste disposal, and central administration. To effectuate this responsibility, the City Manager shall have the power and authority to employ such assistants and other employees of the City for which the Council has approved the position generally.

J. Represent the City, as directed by the Council, in all negotiations and relations with employees, contractors, consultants, other governmental units, and civic organizations in which the City may have an interest.

K. Cooperate with, assist and advise all administrative agencies, City boards and commissions and act as the Council's liaison and representative to such entities.

L. Investigate the affairs and conduct of any department, agency, officer or employee of the City, as deemed appropriate.

M. Keep the Council fully advised of the financial and other conditions of the City and of its future needs.

N. Supervise and assist the City Clerk, City boards, commissions and all City departments in the preparation of and administration and operation of the City's annual budget.

O. Make to the Council periodic reports of the general condition of the City, in writing, at such intervals as the Council directs.

P. Advise, assist and consult with the City Attorney on all City legal matters.

Q. Assist and supervise the City Clerk in regard to the issuance of all licenses and permits and provide for and cause the records to be kept of the issuance and revocation of such licenses and permits. Council approval prior to issuance shall be obtained when required by ordinance or statute.

R. Assist the City Clerk to ensure that all necessary and proper records required by ordinance, State or Federal law or regulation are properly maintained.

S. Formulate and recommend employment and personnel policies, compensation schedules and benefits with the approval of the council and to cooperate and assist the city attorney in all manners relating to collective bargaining.

T. Compile and maintain current and up to date information regarding all funding sources of the city, including state and federal grant and loan programs; plan, develop, prepare and submit, with the approval and at the direction of the council, applications for grants, loans and other sources of funding and to administer all such fundings.

U. Make recommendations to the council and participate in projects and endeavors to support economic growth and development in the city.

V. Faithfully represent the council and the city in intergovernmental relations.

W. Perform such other duties as the mayor or council may direct.

X. The city manager shall have the power to employ, reclassify, discipline, or suspend any employee under his direct control. The city manager shall also have the power to employ, reclassify, discipline, suspend or discharge any employee under the supervision and control of any department head, but only with the concurrence of the department head. The city manager shall not have the authority to employ or appoint, reclassify, discipline, suspend or discharge the police chief, fire chief, superintendent of public works, city clerk, city attorney, deputy city manager- finance officer, cemetery sexton, recreation and forestry coordinator, building and zoning officer, plumbing inspector, electrical inspector, or the planning director. However, the city manager shall, when appropriate, recommend to the council action regarding such appointed officers or employees of the city and shall also recommend to and seek direction from the council when the manager and a department head are not in agreement in regard to the employment, reclassification, suspension, discipline or discharge of a city employee. (Ord. 336, 5-27-1986; 1991 Code; Ord. 480, 7-7-1997; Ord. 698, 3-1-2010; Ord. 720, 6-20-2011)

1-7B-4: COUNCIL'S RETAINED POWERS:

Without limitation, the council specifically retains the following powers to:

- A. Appoint the city attorney.
- B. Appoint the city clerk.
- C. Appoint the superintendent of public works.
- D. Appoint the fire chief.
- E. Control and direct the activities of the city manager.
- F. Make and establish the policies of the city.
- G. Appoint the deputy city manager-finance officer.
- H. Appoint the cemetery sexton.
- I. Appoint the recreation and forestry coordinator.
- J. Appoint the building and zoning officer.
- K. Appoint the plumbing inspector.

L. Appoint the electrical inspector.

M. Appoint the planning director. (Ord. 336, 5-27-1986; 1991 Code; Ord. 693, 11-2-2009; Ord. 720, 6-20-2011)

1-7B-5: MAYOR'S RETAINED POWERS:

With limitations, the mayor shall retain and enjoy the following powers to:

A. Appoint the police chief.

B. Function as the chief elected official with responsibility for the general public relations of the city and intergovernmental affairs.

C. Preside at all council meetings.

D. Cooperate with the city manager in the furtherance of the policies of the council.

E. Fulfill all legal obligations and responsibilities provided by ordinance or state law. (Ord. 336, 5-27-1986)

1-7B-6: EXCEPTIONS:

The governance and operation of the Spencer municipal utilities and the Spencer municipal hospital are hereby excepted from all provisions of this article. The city manager shall have no authority over or responsibility in regard to such entities. The city manager shall act as the council's liaison and representative to the Spencer municipal utilities and the Spencer municipal hospital and will cooperate with the boards and managers of such entities for the good of the city. The city manager shall, from time to time as deemed appropriate, make recommendations to the council concerning its relations with the Spencer municipal utilities and Spencer municipal hospital. (Ord. 336, 5-27-1986)

1-7B-7: COUNCIL RELATIONS:

The city manager shall not take part in any city election except by casting his or her vote, and shall not appoint a city elected official to any city office or employment. (Ord. 336, 5-27-1986)

ARTICLE C. DEPUTY CITY MANAGER-FINANCE OFFICER

SECTION:

1-7C-1: Duties

1-7C-1: DUTIES:

A. The deputy city manager-finance officer shall perform the duties specified in this code and in the job description adopted by the council, or as directed by the city manager or city council.

B. The deputy city manager-finance officer shall perform all duties formerly performed by the city treasurer.

C. The deputy city manager-finance officer shall be the chief accounting and finance officer of the city.

D. The deputy city manager-finance officer shall verify the reconciliation of bank statements, city financial records and fund balances and investments, and perform related duties as required.

E. The deputy city manager-finance officer shall oversee the investing of the funds of the city in accordance with the investment policy adopted by the council, shall monitor the investments of the city, and shall make recommendations concerning the investments of the city to the city manager and city council.

F. The deputy city manager-finance officer shall perform financial planning and financial analysis functions of the city and review rate structures and make recommendations for enterprise funds.

G. The deputy city manager-finance officer shall prepare and monitor the city budget in cooperation with the city manager, city clerk and department heads, subject to the council's approval.

H. The deputy city manager-finance officer shall assist and support the city manager in the performance of the manager's duties in accomplishing the goals and directives of the city council.

I. The deputy city manager-finance officer shall attend the regular meetings of the Spencer city council.

J. The deputy city manager-finance officer is authorized to, and shall perform the duties of the city clerk in the city clerk's absence. (Ord. 693, 11-2-2009)

ARTICLE D. CITY ATTORNEY

SECTION:

1-7D-1: Attorney For Municipality

1-7D-2: To Give Opinion

1-7D-3: Legal Advisor

1-7D-4: Draft Contracts

1-7D-5: Sign Legal Documents

1-7D-6: Attend Meetings

1-7D-7: Condemnation Proceedings

1-7D-8: Report

1-7D-9: Other Duties

Notes

1. See also subsection 1-7-2C of this chapter.

1-7D-1: ATTORNEY FOR MUNICIPALITY:

The attorney shall appear as attorney for the city in all actions in which the city shall be a party or shall have any interest. (Ord. 23, 12-7-1953)

1-7D-2: TO GIVE OPINION:

The attorney shall, upon request of any officer or member of the council, give his opinion upon any question of law arising out of any ordinance, or any suit, claim or demand by or against the city. Such opinion shall be in writing, when the one authorized to require the same shall so request, and shall be filed with the clerk. (Ord. 23, 12-7-1953)

1-7D-3: LEGAL ADVISOR:

The attorney shall act as legal advisor of the council and of its members and all officer on such questions as may arise in relation to the business of the city and when required by the council, shall give his opinion in writing. (Ord. 23, 12-7-1953)

1-7D-4: DRAFT CONTRACTS:

The attorney shall, upon request of any officer or members of the council, draft all contracts, bonds, leases, ordinances, resolutions or other legal writings which may be required for the use of the city or its officers in the performance of their duty. (Ord. 23, 12-7-1953)

1-7D-5: SIGN LEGAL DOCUMENTS:

The attorney shall sign the name of the city to bonds and papers of whatever kind necessary in legal proceedings for the prosecution of any suit in court when directed to do so by the council. (Ord. 23, 12-7-1953)

1-7D-6: ATTEND MEETINGS:

The city attorney or the assistant city attorney shall attend all regular and special meetings of the council unless attendance is excused by the mayor and the council. (Ord. 23, 12-7-1953; Ord. 309, 1-21-1985)

1-7D-7: CONDEMNATION PROCEEDINGS:

The attorney shall manage and conduct all condemnation proceedings where private property is taken for public use. (Ord. 23, 12-7-1953)

1-7D-8: REPORT:

The attorney shall at the first regular meeting of the council in January of each year make a detailed report for the past fiscal year of his departments, including a list of all cases pending for or against the city, the status of each case, a list of all cases settled or decided and any other facts of interest. (Ord. 23, 12-7-1953)

1-7D-9: OTHER DUTIES:

The attorney shall have such other powers and perform such other duties as may be required by the council, the provisions of this code or the laws of the state. (Ord. 23, 12-7-1953; 1991 Code)

ARTICLE E. PUBLIC WORKS DIRECTOR

SECTION:

1-7E-1: Purpose

1-7E-2: City Facilities

1-7E-3: Personnel And Inspections

1-7E-4: Purchases

1-7E-5: Maintain Public Ways

1-7E-6: Safety Of Streets

1-7E-7: Keep Records

1-7E-8: Report Violations

1-7E-9: Transfer Of Funds; Clerk

1-7E-10: Attend Meetings

1-7E-11: Other Duties

1-7E-12: Authority

Notes

1. See subsection 1-7-2J of this chapter.

1-7E-1: PURPOSE:

The purpose of this article shall be to provide for the appointment by the council of a public works director and to define the powers and duties of said public works director and to abolish the office of the street commissioner. (Ord. 10.2, 4-25-1961; Ord. 508, 1-4-1999)

1-7E-2: CITY FACILITIES:

The public works director shall maintain, supervise and operate in an efficient manner the properties of the city, including the streets, bridges, alleys, sidewalks, sanitary sewers, water pollution control facility, storm sewers, solid waste disposal facilities, municipal airport, public works complex facilities, city hall building, and all other buildings and property of the city, except city properties specifically placed under the jurisdiction or control of other departments or administrative agencies of the city under the provisions of this code.

The public works director shall not have primary responsibility for, or authority over, the following properties, but may, upon request of the department or agency with jurisdiction over such properties, advise and assist with the maintenance of the properties:

- A. Property of Spencer municipal utilities;
- B. Property of the Spencer municipal hospital;
- C. Property under the jurisdiction of the Spencer park board;
- D. Property under the jurisdiction of the Spencer Municipal Golf Course board;
- E. Riverside Cemetery and North Lawn Cemetery;
- F. Spencer Municipal Library;
- G. Spencer fire department property; and
- H. Spencer police department property. (Ord. 10.2, 9-25-1961; Ord. 291, 3-19-1984; 1991 Code; Ord. 478, 2-17-1997; Ord. 508, 1-4-1999)

1-7E-3: PERSONNEL AND INSPECTIONS:

The public works director shall coordinate and direct the city's street, solid waste and janitorial employees; shall direct and supervise the work of the assistant to the public works director; and shall assist and cooperate with employees of other departments to accomplish the most efficient, economical, and effective use of city employees.

The public works director may, in his or her discretion, delegate to the assistant to the public works director and authorize the assistant to the public works director to perform any of the duties or obligations of the public works director, subject to the authority of the city manager. (Ord. 147, 5-1-1972; Ord. 291, 3-19-1984; 1991 Code; Ord. 478, 2-17-1997; Ord. 508, 1-4-1999; Ord. 720, 6-20-2011)

1-7E-4: PURCHASES:

The public works director shall perform the duty of purchasing all goods, materials and supplies needed by the city in the maintenance and operation of the physical plant assigned to his responsibility under section 1-7E-2 of this article. In connection therewith, he shall enter into consultation with department heads and the council to determine needs of such departments assigned to his responsibility, formulate the technical and financial aspects of bids to be drawn up by the attorney, submit contracts for such municipal needs to the council for approval and authorization, advertise for bids on the basis of contracts drawn up by the attorney and enforce quality standards for goods purchased. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-5: MAINTAIN PUBLIC WAYS:

The public works director shall be the head of the street department and maintain and repair the sidewalks, alleys, bridges, and streets and keep them in a reasonably safe condition for travelers. He shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass, or overpass, and is charged with the duty of correcting unsafe defects existing in them. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-6: SAFETY OF STREETS:

The public works director shall, whenever snow or ice imperil travel upon streets and alleys in the city be in charge of removing said snow and ice from the streets and alleys. He shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the city safe. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-7: KEEP RECORDS:

The public works director shall compile written records of the purchases, accomplishments, disposition of equipment and manpower, up to date inventory, and activities contemplated by the street department. He shall make a monthly oral and written report of the activities of the street department to the council on or before the second regular meeting of the council of each month. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-8: REPORT VIOLATIONS:

The public works director shall report to the mayor all persons refusing to comply with or violating any provisions of this code in relation to streets, alleys, sewers, public grounds or any other part of the physical plant of the city assigned to his responsibility under section 1-7E-2 of this article. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-9: TRANSFER OF FUNDS; CLERK:

The public works director shall deposit all funds received by him on behalf of the municipal corporation with the clerk upon receipt thereof and take the clerk's receipt therefor. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-10: ATTEND MEETINGS:

The public works director shall attend every regular meeting of the council and attend only those special meetings of the council at which he is required to be present. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-11: OTHER DUTIES:

The public works director shall perform all other duties of a public nature which are not specifically assigned to other officials or employees. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

1-7E-12: AUTHORITY:

The public works director shall have all authority commensurate with the duties set forth herein subject to the direction and control of the council. (Ord. 10.2, 9-25-1961; Ord. 508, 1-4-1999)

ARTICLE F. RECREATION AND FORESTRY COORDINATOR ¹

(Rep. by Ord. 429, 11-2-1992)

Notes

- ¹ 1. Prior ordinance history: Ord. 387, 2-5-1990; 1990 Code; Ord. 424, 8-17-1992.

CHAPTER 8

MUNICIPAL ELECTIONS ¹

SECTION:

1-8-1: Definitions**1-8-2: Precincts Established****1-8-3: Wards Established****1-8-4: Correction Of Errors****1-8-5: Reserved****1-8-6: Nomination Of Candidates**

Notes

- ¹ 1. See also subsection 1-7-4A of this title.

1-8-1: DEFINITIONS:

For the purposes of this chapter, unless the context otherwise requires:

ANNEXED TERRITORY: Territory annexed to the city of Spencer after census day.

CENSUS DAY: The most recent official United States decennial census.

CITY OF SPENCER: Includes all territory within the corporate limits.

COMMISSIONER OF ELECTIONS: The Clay County auditor.

CORPORATE LIMITS: The corporate limits of the city of Spencer on census day.

STREET: Or similar language means the centerline of the right of way and a straight extension of that centerline.

Points of the compass are approximate unless otherwise stated.

All names, boundaries, lines, features, and fixtures are to be construed as they existed on census day. (Ord. 142, 12-22-1971, eff.

1-8-2: PRECINCTS ESTABLISHED:

A. The first precinct shall consist of the area bounded by a line described as follows:

Beginning at the intersection of Ninth (9th) Avenue West and West Seventh (7th) Street; then east to First (1st) Avenue West; then South to West Fifth (5th) Street; then East to Sixth (6th) Avenue East; then north to the Centerline of the Main track of the Chicago, Des Moines and Eastern Railroad; then east along said railroad center line to the east corporate boundary; then south along the corporate boundary line to Eleventh (11th) Street SE; then west to Tenth (10th) Avenue SE; then north to Fourth (4th) Street SE; then west along Fourth (4th) Street SE; then west along Fourth (4th) Street SW to Eleventh (11th) Avenue SW to the west corporate boundary line; then north along the corporate boundary line to the center of the main channel of the Little Sioux River; then westerly along the corporate boundary line to the southerly projection of the center line of Fourteenth (14th) Avenue West; then north along the centerline of Fourteenth (14th) Avenue West to West Fourth (4th) Street; then easterly along West Fourth (4th) Street to Ninth (9th) Avenue West; then north to the point of beginning.

B. The second precinct shall consist of the area bounded by a line described as follows:

Beginning at the intersection of Fourth (4th) Avenue West and West Thirteenth (13th) Street; then east along West Thirteenth (13th) Street and East Thirteenth (13th) Street to Third (3rd) Avenue East; then north along Third (3rd) Avenue East to East Fourteenth (14th) Street; then east along East Fourteenth (14th) Street to Fairview Avenue; then northeasterly on Fairview Avenue to Ninth (9th) Avenue East; then north to East Eighteenth (18th) Street, then east to the corporate boundary; then south along the corporate boundary to the north boundary of the First Precinct; then westerly and southerly along the boundary of the First Precinct to Sixth (6th) Avenue West; then north on Sixth (6th) Avenue West to West Ninth (9th) Street; then west along West Ninth (9th) Street to Seventh (7th) Avenue West; then north on Seventh (7th) Avenue West to West Eleventh (11th) Street; then east on West Eleventh (11th) Street to Fourth (4th) Avenue West; then north on Fourth (4th) Avenue West to the point of beginning.

C. The third precinct shall consist of the area bounded by a line described as follows:

Beginning at the intersection of Eleventh (11th) Avenue West and West Eighteenth (18th) Street; then west to a point 1,417 feet west of the intersection of West Eighteenth (18th) Street and Eighteenth (18th) Avenue West. Said point also being the southwest corner of Fairway Woods First Addition to Spencer, Clay County, Iowa; then north along the west boundary of Fairway Woods First Addition to the northeast corner of Anderson's Addition to Spencer, Clay County, Iowa; then west along the north line of said Anderson's Addition a distance of sixty-seven (67) feet; thence northerly, and easterly along the corporate boundary to its intersection with East Eighteenth (18th) Street; then west and south along the boundary of the Second Precinct to the intersection of Seventh (7th) Avenue West and West Eleventh (11th) Street; then west on West Eleventh (11th) Street to Thirteenth (13th) Avenue West; then north on Thirteenth (13th) Avenue West to West Thirteenth (13th) Street; then east on West Thirteenth (13th) Street to Eleventh (11th) Avenue West; then north on Eleventh (11th) Avenue West to the point of beginning.

D. The fourth precinct shall consist of the area bounded by a line described as follows:

Beginning at the intersection of Eleventh (11th) Avenue West and West Eighteenth (18th) Street; then west to a point 1,417 feet west of the intersection of West Eighteenth (18th) Street and Eighteenth (18th) Avenue West. Said point also being the southwest corner of Fairway Woods First Addition to Spencer, Clay County, Iowa; then north along the west boundary of Fairway Woods First Addition to the northeast corner of Anderson's Addition to Spencer, Clay County, Iowa; then westerly and southerly along the boundary of said Anderson's Addition to the center line of West Eighteenth (18th) Street; then continuing westerly and northerly along the corporate boundary to its western most point; then continuing southerly and easterly along the corporate boundary to the southerly extension of the center line of Fourteenth (14th) Avenue West; then northerly on the centerline of Fourteenth (14th) Avenue West to West Fourth (4th) Street; then east to Ninth (9th) Avenue West; then north to West Seventh (7th) Street; then east to Sixth (6th) Avenue West; then north to West Ninth (9th) Street; then west to Seventh (7th) Avenue West; then north to West Eleventh (11th) Street; then west to Thirteenth (13th) Avenue West; then north to West Thirteenth (13th) Street; then east to Eleventh (11th) Avenue West; then north to the point of beginning.

E. The fifth precinct shall consist of the area bounded by a line described as follows:

Beginning at the intersection of Eleventh (11th) Avenue SW and Fourth (4th) Street SW; then easterly along the South boundary of the First Precinct to the East corporate boundary; then continuing southerly, westerly, then northerly along the corporate boundary to the point of beginning.

(Ord. 728, 8-15-2011, eff. 1-15-2012; Ord. 759, 2-3-2014)

1-8-3: WARDS ESTABLISHED:

The city is hereby divided into five (5) wards as follows:

A. The first ward shall consist of the first precinct.

B. The second ward shall consist of the second precinct.

C. The third ward shall consist of the third precinct.

D. The fourth ward shall consist of the fourth precinct.

E. The fifth ward shall consist of the fifth precinct. (Ord. 142, 12-22-1971, eff. 12-31-1971; Ord. 250, 12-21-1981)

1-8-4: CORRECTION OF ERRORS:

If this chapter fails to place any part of the city within a precinct established by this chapter, the commissioner of elections shall assign the omitted area to an adjacent precinct within the same legislative district. If this chapter places any part of the city in more than one precinct established by this chapter, the commissioner of elections shall assign that territory to an adjacent precinct within the proper legislative district. The commissioner of elections may also correct obvious clerical errors in this chapter. (Ord. 142, 12-22-

1971, eff. 12-31-1971; Ord. 250, 12-21-1981)

1-8-5: RESERVED:

1-8-6: NOMINATION OF CANDIDATES:

A. Purpose: The purpose of this section is to provide for the nomination and election of candidates for elected offices in the city.

B. Nominations: Nominations for candidates for city elected officers shall be accomplished pursuant to the provisions of chapter 45, Iowa Code, as amended.

C. Candidates Elected: Pursuant to the provisions of section 376.8(3) Iowa Code as amended, the candidates who receive the greatest number of votes for each office on the ballot shall be elected, to the extent necessary to fill the positions open. (Ord. 140, 10-4-1971; Ord. 250, 12-21-1981; Ord. 320, 8-19-1985)

CHAPTER 9

INDUSTRIAL PROPERTY TAX CREDITS

SECTION:

1-9-1: Purpose

1-9-2: Allowable Exemption

1-9-3: Exemption Application

1-9-1: PURPOSE:

The City hereby provides for a partial tax exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to the provisions of chapter 427B of the Code of Iowa, as amended. This provision shall be subject to the definitions and requirements set forth in said chapter. (Ord. 258, 5-3-82)

1-9-2: ALLOWABLE EXEMPTION:

The actual value added to industrial real estate for the reasons specified in Section 1-9-1 herein is eligible to receive a partial exemption from taxation for a period of five (5) years. "Actual value added" shall mean the actual value added as of the first year for which the exemption is claimed; except, that actual value added by improvements to machinery and equipment means the actual value as determined by the Clay County Assessor as of January 1 of each year for which the exemption is claimed. The amount of actual value added which is eligible to be exempt shall be as follows, for the:

First year 75%

Second year 60%

Third year 45%

Fourth year 30%

Fifth year 15%

(Ord. 258, 5-3-82)

1-9-3: EXEMPTION APPLICATION:

An application for exemption under this Chapter shall be filed by the owner of the property with the Clay County Assessor by February 1 of the assessment year in which the value added is first assessed for taxation, for each project resulting in actual value added for which an exemption is claimed. Such application for exemption shall be made on forms prescribed by the Director of Revenue of the State of Iowa, supplying all information deemed necessary by said Director. (Ord. 258, 5-3-82)

ARTICLE A. SPECULATIVE SHELL BUILDINGS

SECTION:

1-9A-1: Purpose

1-9A-2: Definitions

1-9A-3: Eligibility For Tax Exemption

1-9A-4: Application For Exemption

1-9A-5: Duration

1-9A-6: Repeal Of Article

1-9A-1: PURPOSE:

The city council declares it to be the intention of this article to provide for a property tax exemption for "speculative shell buildings" as provided by section 427.1(27) of the 2003 code of Iowa. (Ord. 617, 2-21-2005)

1-9A-2: DEFINITIONS:

The following definitions shall apply to the terms used in this article:

COMMUNITY DEVELOPMENT ORGANIZATION:

A. An organization, which meets the membership requirements of subsection B of this definition, formed within a city or county or multicommunity group for one or more of the following purposes:

1. To promote, stimulate, develop, and advance the business prosperity and economic welfare of the community, area, or region and its citizens.
2. To encourage and assist the location of new business and industry.
3. To rehabilitate and assist existing business and industry.
4. To stimulate and assist in the expansion of business activity.

B. For purposes of this definition a community development organization must have at least fifteen (15) members with representation from the following:

1. A representative from government at the level or levels corresponding to the community development organization's area of operation.
2. A representative from a private sector lending institution.
3. A representative of a community organization in the area.
4. A representative of business in the area.
5. A representative of private citizens in the community, area, or region.

NEW CONSTRUCTION: New buildings or structures and includes new buildings or structures, which are constructed as additions to existing buildings or structures. New construction also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations, not for profit cooperative associations under chapter 499, or for profit entities to market a building or structure as a speculative shell building, which determination must receive prior approval from the city council of the city.

SPECULATIVE SHELL BUILDING: A building or structure owned and constructed or reconstructed by a community development organization, a not for profit cooperative association under chapter 499, or a for profit entity without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line. (Speculative shell buildings do not include properties developed for or marketed as service oriented businesses such as, but not limited to, commercial office or retail space.) (Ord. 617, 2-21-2005)

1-9A-3: ELIGIBILITY FOR TAX EXEMPTION:

A one hundred percent (100%) exemption from property taxation is hereby allowed for the new construction of shell buildings by community development organizations, not for profit cooperative associations under chapter 499, or for profit entities for speculative purposes or the portion of the value added by buildings being reconstructed or renovated by community development organizations, not for profit cooperative associations under chapter 499, or for profit entities in order to become speculative shell buildings. An exemption shall not be granted a speculative shell building of a not for profit cooperative association under chapter 499 or a for profit entity, if the building is used by the cooperative association or for profit entity, or a subsidiary or majority owners thereof for other than as a speculative shell building. Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. (Ord. 740, 12-3-2012)

1-9A-4: APPLICATION FOR EXEMPTION:

An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the county assessor's office by February 1 of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the director of revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the director of revenue. (Ord. 617, 2-21-2005)

1-9A-5: DURATION:

The tax exemption or partial tax exemption shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the reconstruction or renovation first adds value and all subsequent years until the property is leased or sold or until the exemption is terminated by ordinance of the city council of the city of Spencer. If the shell building or any portion of the shell building is leased or sold the portion of the shell building which is leased or sold shall not be entitled to an exemption under this article for subsequent years. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of section 427B.1 if used for purposes set forth in section 427B. (Ord. 617, 2-21-2005)

1-9A-6: REPEAL OF ARTICLE:

This article may be repealed by the city council when in its opinion continuation of the exemption granted ceases to be of benefit to the city, but all existing exemptions shall continue until their expiration. (Ord. 617, 2-21-2005)

MISCELLANEOUS PROVISIONS

SECTION:

1-10-1: City Seal; Custody

1-10-2: Boundaries

1-10-1: CITY SEAL; CUSTODY:

A. City Seal: The City Seal shall be circular in form, in the center of which shall be the words "SPENCER, IOWA", and around the margin the words "CITY SEAL", and the same is hereby declared to be the City Seal.

B. Custody Of Seal: The City Seal shall be kept in the custody of the Clerk, as provided for in section 1-7A-1 of this title. (Ord. 2, 2-7-1953; 1991 Code)

1-10-2: BOUNDARIES:

The boundaries of the City are hereby described, established and confirmed to be as legally described as follows:

Beginning at a point on the W (West) line of the SW (Southwest) quarter of Sec. 1, T96N, R37W of 5th P.M. (Section 1, Township 96 North, Range 37 West of the Fifth Principal Meridian) in Clay County, Iowa, 1873.52 feet N (North) of the SW (Southwest) corner of said Section 1, and running from this point of beginning N (North) on the W (West) line of said Sec. 1 to the NW (Northwest) corner of the SW quarter of said Sec. 1; thence E (East) on the N line of the S (South) half of said Sec. 1 to the NE (Northeast) corner of the NW quarter of the SE (Southeast) quarter of said Sec. 1; thence N on the W line of the E (East) half of the NE quarter of said Sec. 1 to the NW corner of the E half of the NE quarter of said Sec. 1; thence N on the W line of the E half of the E half of Sec. 36, T97N, R37W of 5th P.M., to the NW corner of the E half of the E half of said Sec. 36; thence N on the W line of the E half of the E half of Sec. 25, T97N, R37W of 5th P.M., to the NW corner of the E half of the E half of said Sec. 25; thence E on the N line of the E half of the E half of said Sec. 25 to a point located 50 feet W of the NE corner of said Sec. 25; thence S (South) on a line parallel to the E line of said Sec. 25 located 50 feet W there from as measured perpendicular to the E line of said Sec. 25 to the S line of the E half of the NE quarter of said Sec. 25; thence W on the S line of the E half of the NE quarter of said Sec. 25 to the E R-O-W (right-of-way) line of the City of Spencer's Railroad R-O-W as it now exists in said Sec. 25; thence Southeasterly on the E R-O-W line of said railroad to the S line of Sec. 25; thence E to the SE corner of Sec. 25; thence E on the N line of the W half of Sec. 31, T97N, R36W of 5th P.M., to the NE corner of the W half of said Sec. 31; thence S on the E line of the W half of said Sec. 31 to the SE corner of the W half of said Sec. 31; thence S on the E line of the N half of the NW quarter of Sec. 6, T96N, R36W of 5th P.M., to the SE corner of the N half of the NW quarter of said Sec. 6; thence E on the N line of the S half of the NE quarter of said Sec. 6 to the NE corner of the S half of the NE quarter of said Sec. 6; thence S on the E line of the S half of the NE quarter of said Sec. 6 to the SE corner of the S half of the NE quarter of said Sec. 6; thence E on the N line of the SW quarter of Sec. 5, T96N, R36W of 5th P.M., to the NE corner of the SW quarter of said Sec. 5; thence S on the E line of the SW quarter of said Sec. 5 to the SE corner of the SW quarter of said Sec. 5; thence S on the E line of the NW quarter of Sec. 8, T96N, R36W of the 5th P.M., to the NW corner of the SE quarter of said Sec. 8; thence E on the N line of the SE quarter of said Sec. 8 to the NE corner of the SE quarter of said Sec. 8; thence W on the S line of the SE quarter of said Sec. 8 to the SW corner of the SE quarter of said Sec. 8; thence S on the E line of the W half of Sec. 17, T96N, R36W of 5th P.M., to the SE corner of the W half of said Sec. 17; thence S on the E line of the NW quarter of Sec. 20, T96N, R36W of 5th P.M., a distance of 590.6 feet, more or less, to the S R-O-W line of U.S. Highway 18; thence Southeasterly, on a curve concave Northerly having a radius of 2,342 feet, on the South R-O-W line of U.S. Highway No. 18 a distance of 530 feet; thence N 77° 37' E along the S R-O-W line of U.S. Highway No. 18 a distance of 558.3 feet; thence N 61° 27' E along the S R-O-W line of U.S. Highway No. 18 a distance of 180.8 feet; thence N 70° 54' E along the S R-O-W line of U.S. Highway No. 18 a distance of 600.1 feet; thence N 75° 57' E along the S R-O-W line of U.S. Highway No. 18 a distance of 226.8 feet; thence N 67° 48' E along the S R-O-W line of U.S. Highway No. 18 a distance of 452.8 feet; thence S 64° 14' E a distance of 146.0 feet to the E line of Sec. 20, T96N, R36W of 5th P.M.; thence S 6° 43' E along the E line of said Sec. 20 a distance of 326.9 feet; thence S 82° 41' W along the S line of Kiwanis De Wolf Park a distance of 1,605.5 feet; thence S 46° 44' W along the S line of said Park a distance of 217.6 feet; thence S 82° 41' W along the S line of said Park a distance of 311.9 feet to the SW corner of said Park; thence S a distance of 59 feet; thence W a distance of 530.4 feet to a point of intersection with the E line of the NW quarter of said Sec. 20, said point being located 880 feet, more or less, S of the NE corner of the NW quarter of said Sec. 20; thence S on the E line of the NW quarter of said Sec. 20 to the SE corner of the N half of the NW quarter of said Sec. 20; thence W on the S line of the N half of the NW quarter of said Sec. 20 to the SE corner of Lot 1, Sembach First Addition to Spencer, Clay County, Iowa, said point also being described as the NE corner of Outlot A, Elk Run First Addition to Spencer, Clay County, Iowa; thence S along the E line of said Outlot A to the SE corner of said Outlot A; thence W, N and W along the S line of said Elk Run First Addition to the SW corner of Lot 2 of said addition; thence N along the W line of said Lot 2 to the NW corner of said Lot 2, thence E along the N line of said Lot 2 to the NE corner of said Lot 2; thence N along the west line of 12th Avenue SE to the SW corner of Sembach First Addition, said point being located on the S line of the N Half of the NW quarter of said Sec. 20; thence west on said S line to the SW corner of the N half of the NW quarter of said Sec. 20; thence W on the S line of the N half of the NE quarter of Sec. 19, T96N, R36W of 5th P.M., to the SW corner of the N half of the NE quarter of said Sec. 19; thence S on the E line of the NW quarter of said Sec. 19 to the NE corner of the SW quarter of said Sec. 19; thence S on the E line of the SW quarter of said Sec. 19 to the SE corner of the SW quarter of said Sec. 19; thence W on the S line of the SW quarter of said Sec. 19 to a point located 446 feet E of the SW corner of the SW quarter of said Sec. 19; thence S parallel with the W line of the NW quarter of Sec. 30, T96N, R36W of 5th P.M. a distance of 976.7 feet; thence W parallel with the N line of the NW quarter of said Sec. 30 a distance of 446 feet to the W line of the NW quarter of said Sec. 30; thence S on the W line of the NW quarter of said Sec. 30 to the SE corner of the N half of the NE quarter of Sec. 25, T96N, R37W of 5th P.M.; thence W on the S line of the N half of the NE quarter of said Sec. 25 to a point located 700 feet E of the W line of the NE quarter of said Sec. 25; thence S parallel to the W line of the NE Quarter of said Sec. 25 to the S line of the NE quarter; thence W along the S line of said NE quarter of said Sec. 25 to the SW corner of said NE quarter of Sec. 25; thence W on the S line of the NW quarter of said Sec. 25 a distance of 341.2 feet; thence N parallel with the E line of the NW quarter of said Sec. 25 to the N line of the NW quarter of said Sec. 25; thence E on the N line of the NW quarter of said Sec. 25 to the NE corner of the NW quarter of said Sec. 25; thence N on the W line of the SE quarter of Sec. 24, T96N, R37W of the 5th P.M. to a point on the W line of said Sec. 24 approximately 1,256.03 feet N

of the S quarter corner of said Sec. 24, said point being the intersection of the extension of the S line of Lot 1, Noteboom First Addition to Spencer, Clay County, Iowa and the W line of said SE quarter of Sec. 24; thence W on said S line of Lot 1 and its extension to the W line of said Noteboom First addition; thence N on the W line of Noteboom First Addition to a point of intersection with the S Line of Menard's First Addition, said point also described as the S line of the NW quarter of said Sec. 24; to the SE corner of the NW quarter of said Sec. 24; thence W on the S line of the NW quarter of said Sec. 24 to the SW corner of the E half of the NW quarter of said Sec. 24 (said SW corner also being the SW corner of Menard's First Addition, Spencer, Clay County, Iowa); thence N 01° 15' 55"W on the W line of the E half of the NW quarter of said Sec. 24 to the S R-O-W line of 12th Street SW (said point being located 489.45 feet south of the NW corner of the E half of the NW quarter of said Sec. 24); thence W on the S R-O-W line of 12th Street SW a distance of 33.0 feet to the W R-O-W of 14th Ave SW; thence N 01° 15' 55"W on said W R-O-W line a distance of 66.0 feet; thence S 88° 22' 20" W a distance of 100.41 feet; thence S 2° 43' 21" E a distance of 16.03 feet; thence S 89° 26' 51" W a distance of 245.02 feet to a line parallel with and 345 feet W of, as measured perpendicular thereto, the W R-O-W line of 14th Ave SW; thence N 01° 15' 55"W on said parallel line to the N line of the NW quarter of said Sec. 24; thence E on the N line of the NW quarter of said Sec. 24 to a point located 745 feet W of the NE corner of the NW quarter of said Sec. 24; thence N parallel with the E line of the SW quarter of Sec. 13, T96N, R37W of the 5th P.M. a distance of 745 feet; thence E parallel with the S line of the W half of said Sec. 13 a distance of 745 feet to the E line of the W half of said Sec. 13; thence N on the E line of the W half of said Sec. 13, to the center line of the Little Sioux River; thence Westerly on the center line of the Little Sioux River to a point of intersection with a line located 175 feet W of and parallel with an extension of the W line of Twelfth Avenue W as established in the City of Spencer, Clay County, Iowa; thence N on said line located 175 feet W of and parallel with an extension of the W line of Twelfth Avenue W as established in the City of Spencer, Clay County, Iowa, to the S line of Sec. 12, T96N, R37W of 5th P.M.; thence W on the S line of said Sec. 12 to the SW corner of said Sec. 12; thence N on the W line of said Sec. 12 to the center line of W Fourth Street as established in the City of Spencer, Clay County, Iowa; thence Westerly on the center line of said West Fourth Street to a point of intersection with the N line of the NW quarter of Sec. 14, T96N, R37W of 5th P.M.; thence E on the N line of the NW quarter of said Sec. 14 to the NE corner of the NW quarter of the NW quarter of said Sec. 14; thence S on the E line of the NW quarter of the NW quarter of said Sec. 14 to the SE corner of the NW quarter of the NW quarter of said Sec. 14; thence W on the S line of the NW quarter of the NW quarter of said Sec. 14 to the SW corner of the NW quarter of the NW quarter of said Sec. 14; thence W on the S line of the N half of the NE quarter of Sec. 15, T96N, R37W of 5th P.M., to the SW corner of the N half of the NE quarter of said Sec. 15; thence N on the W line of the N half of the NE quarter of said Sec. 15 to the NW corner of the N half of the NE quarter of said Sec. 15; thence E on the N line of the NE quarter of said Sec. 15 to a point located 82.5 feet E of the NW corner of the NE quarter of said Sec 15; thence N 1° 58' 10" E on a line parallel with and 82.5 feet E of, as measured perpendicular thereto, the W line of the SE quarter of Sec. 10, T96N, R37W of the 5th P.M. a distance of 2,668.94 feet to the S line of the Iowa, Chicago and Eastern Railway R-O-W; thence S 77° 55' 10" E on said S R-O-W line a distance of 1,363.36 feet; thence S 0° 09' 00" W a distance of 2,453.07 feet to the S line of the SE quarter of said Sec. 10; thence E on the S line of the SE quarter of said Sec. 10 a distance of 1,321.51 feet to the SE corner of said Sec 10; thence N 00° 06.3' E on the W line of the SW quarter of Sec. 11, T96N, R37W of 5th P.M., to a point located 311.7 feet S of the NW corner of the SW quarter of said Sec. 11 as measured on the W line of said SW quarter; thence N 77° 54.7' W on the S line of Lot 2, Block 2, Subdivision Number one, Corn Belt Industrial Park, Clay County, Iowa, and the extension thereof, (said S line and extension thereof also being the N R-O-W line of the Iowa, Chicago and Eastern Railway), a distance of 2,707.2 feet; thence N 01° 59' E a distance of 23.3 feet; thence N 83° 57.6' W a distance of 83.0 feet to the SW corner of the NE quarter of Sec. 10, T96N, R37W of the 5th P.M.); thence N on the W line of the NE quarter of said Sec. 10 a distance of 2,665.2 feet to the NW corner of the NE quarter of said Sec. 10; thence N on the W line of the E half of Sec. 3, T96N, R37W of the 5th P.M. to the NW corner of the NE quarter of said Sec. 3; thence E on the N line of the NE quarter of said Sec. 3 to the NE corner of the NE quarter of said Sec. 3; thence S on the E line of the NE quarter of said Sec. 3 to the SE corner of the NE quarter of said Sec. 3; thence S on the E line of the SE quarter of said Sec. 3 to the SE corner of said Sec. 3; thence N 90° 00' 00" E on the S line of the SW quarter of Sec. 2, T96N, R37W of 5th P.M. a distance of 789.00 feet; thence N 00° 00' E a distance of 650.22 feet; thence N 90° 00' E a distance of 568.00 feet; thence S 00° 00' E a distance of 290.22 feet; thence S 90° 00' W a distance of 105.00 feet; thence S 00° 00' E a distance of 360.00 feet to the S line of said Sec. 2; thence E on the S line of the SW quarter of said Sec. 2 to the SE corner of the SW quarter of said Sec. 2; thence S 90° 00' E on the S line of the SE quarter of said Sec. 2 a distance of 105.43 feet; thence N 00° .00' E a distance of 80.00 feet; thence N 68° 47' E a distance of 376.90 feet; thence N 36° 48' E a distance of 304.20 feet; thence N 32° 18' W a distance of 146.90 feet; thence N 46° 28' E a distance of 164.60 feet; thence N 60° 33' E distance of 448.50 feet; thence N 90° 00' E a distance of 333 feet, thence N 65°29'56"W a distance of 120.57 feet; thence N 12°25'17"E a distance of 93.50 feet; thence N 40° 48' 57" W a distance of 33.36 feet; thence N 21°05'42"W a distance of 102.99 feet; thence N 50° 14' 19" E a distance of 120.96 feet; thence S 85° 30' 50" E a distance of 123.22 feet; thence N 49° 23' 04" E a distance of 176.91 feet; thence N40°40'47"E a distance of 205.03 feet; thence N46°26'40"E a distance of 154.81 feet; thence S 54°25'47"E a distance of 289.02 feet; thence N 90°00'00"E a distance of 174.99 feet; thence N01°36'00"W a distance of 415.33 feet; thence N90°00'00"E a distance of 600.72 feet to the E line of Sec. 2, T96N, R37W of the 5th P.M. which is the Point of Beginning for this description.

Because this description is a compilation of numerous legal descriptions, a different reference bearing is used in each quarter section that the description traverses through.

(Ord. 762, 5-5-2014; Ord. 812, 5-1-2017; Ord. 835, 10-1-2018)

CHAPTER 11

SPENCER MAINSTREET URBAN REVITALIZATION AREA

SECTION:

1-11-1: Urban Revitalization Area Outlined

1-11-2: Plan Adoption

1-11-3: Purpose

1-11-4: Property Improvements Eligible For Tax Abatement

1-11-5: Amendments

1-11-1: URBAN REVITALIZATION AREA OUTLINED:

The following real property, located within the corporate limits of the city of Spencer, is hereby designated as the Spencer mainstreet urban revitalization area pursuant to the provisions of chapter 404 of the code of Iowa:

Blocks 21, 26, 27, 30 and 31 of the Chicago Milwaukee and St. Paul Railway Addition to the City of Spencer AND Blocks A, B, E and F of the Original Plat of the City of Spencer.

(Ord. 569, 5-6-2002)

1-11-2: PLAN ADOPTION:

The "Spencer Mainstreet Urban Revitalization Plan", in the form attached to the original permanent copy of ordinance 569 in the office of the Spencer city clerk is hereby approved, adopted and incorporated in this chapter by reference. (Ord. 569, 5-6-2002)

1-11-3: PURPOSE:

The purpose of the plan is to encourage the establishment of new residential dwelling units, or the renovation of existing dwelling units in the area, located above the ground floor. (Ord. 569, 5-6-2002)

1-11-4: PROPERTY IMPROVEMENTS ELIGIBLE FOR TAX ABATEMENT:

Property improvements eligible for tax abatements under the plan include properties located within the designated urban revitalization area, zoned commercial, which are located above the ground floor and which are permitted or special exception uses under the city of Spencer's zoning ordinances. (Ord. 569, 5-6-2002)

1-11-5: AMENDMENTS:

The Spencer mainstreet urban revitalization plan may be amended by the city council following public hearing in accordance with the provisions of section 404.2(6), code of Iowa. (Ord. 569, 5-6-2002)

CHAPTER 12

NATURAL GAS UTILITY FRANCHISE FEE

SECTION:

1-12-1: Revenue Purpose Statement

1-12-2: Franchise Fee

1-12-3: Payment

1-12-4: Annexation

1-12-5: Examination Of Records; Error In Payment

1-12-6: Use Of Franchise Fees

1-12-1: REVENUE PURPOSE STATEMENT:

Revenues from any natural gas utility franchise fee hereinafter collected pursuant to the provisions of this chapter, shall be used for the following purposes:

A. Fifty percent (50%) of all such revenues shall be used for property tax relief. It is anticipated that approximately forty thousand dollars (\$40,000.00) would be generated for each one percent (1%) franchise fee imposed.

B. The remaining fifty percent (50%) of such revenues shall be used for one or more of the following purposes:

1. To provide revenue to maintain and upgrade aging infrastructure.

2. To provide revenue for street and sidewalk maintenance and repair.

3. To provide revenue for city facility maintenance repair, including parks, trails, buildings, and underground infrastructure. (Ord. 726, 7-18-2011)

1-12-2: FRANCHISE FEE:

The city of Spencer, Iowa, hereby establishes a natural gas utility franchise fee to be imposed on gross revenues of every natural gas utility selling natural gas within the corporate limits of the city.

The initial franchise fee shall be zero percent (0%). Any natural gas utility subject to this chapter shall be notified not less than ninety (90) days before the effective date of any amendment in the franchise fee rate.

If a franchise fee is hereinafter imposed, the amount paid by natural gas providers shall be in lieu of, and natural gas providers shall be exempt from, all other fees, charges, taxes or assessments, except special assessments, which the city may impose for the privilege of doing business within the city, including, without limitation, excise taxes, licensing fees, or right of way permit fees. (Ord. 726, 7-18-2011)

1-12-3: PAYMENT:

Natural gas utilities subject to this chapter shall report and pay franchise fees due under this chapter on a quarterly basis, for the four

(4) calendar quarters ending March 31, June 30, September 30 and December 31 of each year. Payment shall be made to the city within thirty (30) days of the end of the quarter. Initial and final payments shall be prorated for the portions of the applicable periods.

The amount of the franchise fee shall be shown separately on the utility bill to each customer. The utility shall not grant exemptions or refunds of the franchise fee, except as permitted by law. No franchise fee shall be charged to the city, as a customer. If, at any time, the Iowa utilities board or other authority having proper jurisdiction prohibits or suspends the collection or payment of a franchise fee, the utility shall be relieved of its obligation to collect and pay to the city a franchise fee. (Ord. 726, 7-18-2011)

1-12-4: ANNEXATION:

Upon receipt of a final and unappealable order or approval authorizing annexation or changes in the corporate boundaries of the city, the city clerk shall provide written notification to the company of such annexation or change, and the company shall apply the franchise fee to its customers who are affected by the annexation or change not more than ninety (90) days from receipt of the written notice and the city's verification of addresses within the annexed area. (Ord. 726, 7-18-2011)

1-12-5: EXAMINATION OF RECORDS; ERROR IN PAYMENT:

The city shall have the right to examine during normal business hours the utility's books, receipts, files, records and documents to the extent reasonably necessary to verify the accuracy of payments due under this chapter provided, that the city shall not exercise this right more than twice in a calendar year. If it is determined that an error was made in the payment of any fee required herein, such error shall be corrected promptly. Any underpayment shall be paid within thirty (30) days of recalculation of the amount due and any overpayment shall be deducted from the next payment due. (Ord. 726, 7-18-2011)

1-12-6: USE OF FRANCHISE FEES:

The city shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law. The city shall establish and maintain a franchise fee account within the city's general fund, to which all franchise fee revenue shall be deposited and all expenditures made in accordance with the provisions of sections 364.2(4)(f) and 384.3 of the code of Iowa. (Ord. 726, 7-18-2011)

CHAPTER 13

SPENCER RESIDENTIAL URBAN REVITALIZATION AREA

SECTION:

1-13-1: Area Designated

1-13-1: AREA DESIGNATED:

Pursuant to the provisions of chapter 404, code of Iowa (the "act"), the council of Spencer, Iowa, has determined the boundaries of the city of Spencer, per section 1-10-2 of this title to be known as the Spencer residential urban revitalization area which:

- A. Is an area which is appropriate as an economic development area as defined in section 403.17 of the code of Iowa.
- B. Is an area which is appropriate for public improvements related to housing and residential development, or construction of housing and residential development, including single- or multi-family housing.
- C. The economic development of and the promotion of housing within the Spencer residential urban revitalization area is necessary in the interest of the public welfare of the residents of the city and the Spencer residential urban revitalization area substantially meets the criteria set forth in section 404.1 of the act. (Ord. 736, 4-16-2012)

TITLE 2

BOARDS AND COMMISSIONS

CHAPTER 1

PLANNING AND ZONING COMMISSION

SECTION:

2-1-1: Commission Established

2-1-2: Organization

2-1-3: Rules; Regulations

2-1-4: Annual Report

2-1-5: Assistants

2-1-6: Powers; Duties

2-1-7: Appropriation

Notes

¹ 1. IC 414.6. See also subsection 1-7-3J of this code.

2-1-1: COMMISSION ESTABLISHED:

Under and by virtue of authority conferred by the code of Iowa, a city planning and zoning commission is hereby created and established. (Ord. 74, 12-7-1953)

2-1-2: ORGANIZATION:

The commission shall choose, annually, at its first regular meeting one of its members to act as chairman of the commission, and another as vice chairman, who shall perform all of the duties of the chairman during his absence or disability. (Ord. 74, 12-7-1953)

2-1-3: RULES; REGULATIONS:

The commission shall adopt such rules and regulations governing its organization and procedure as may be deemed necessary. (Ord. 74, 12-7-1953)

2-1-4: ANNUAL REPORT:

The commission shall each year make a report to the mayor and the council of its proceedings with a full statement of receipts and disbursements and progress of its work for the preceding fiscal year. (Ord. 74, 12-7-1953)

2-1-5: ASSISTANTS:

Subject to the limitations contained in the code of Iowa as to the expenditure of funds, the commission may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it. (Ord. 74, 12-7-1953)

2-1-6: POWERS; DUTIES:

The commission shall have such powers and duties as are stated in the code of Iowa. (Ord. 74, 12-7-1953)

2-1-7: APPROPRIATION:

The council may annually appropriate a sum of money from the general funds for payment of the expenses of the city planning and zoning commission. (Ord. 74, 12-7-1953; 1991 Code)

CHAPTER 2

BOARD OF ADJUSTMENT ¹

SECTION:

2-2-1: Proceedings Of Board Of Adjustment

2-2-2: Hearings, Appeals, Notice

2-2-3: Stay Of Proceedings

2-2-4: Powers And Duties

2-2-5: Decisions Of Board Of Adjustment

2-2-6: Appeals From Board Of Adjustment

Notes

¹ 1. See also subsection 1-7-3M of this code.

2-2-1: PROCEEDINGS OF BOARD OF ADJUSTMENT:

The board of adjustment shall adopt rules necessary for the conduct of its affairs. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The building and zoning officer shall be an ex officio member of the board. The city clerk shall act as secretary for the board of adjustment.

The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record. The presence of four (4) members shall constitute a quorum. (1991 Code)

2-2-2: HEARINGS, APPEALS, NOTICE:

Appeals to the board of adjustment concerning interpretation or administration of the zoning ordinance may be taken by any person aggrieved or by any officer or bureau of the city of Spencer affected by a decision of the building and zoning officer. Such appeals shall be taken within fifteen (15) days from the date of the action appealed, by filing with the building and zoning officer and with the board of adjustment, a notice of appeal specifying the grounds thereof. The building and zoning officer shall transmit to the board all papers constituting the record upon which the action appealed was taken. The board of adjustment shall fix a reasonable time for the

hearing of appeals, give public notices thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent, or by attorney. A fee to be determined by resolution of the city council shall be paid to the city clerk at the time the notice is filed. (1991 Code; Ord. 671, 8-4-2008)

2-2-3: STAY OF PROCEEDINGS:

An appeal stays all proceedings in furtherance of action appealed, unless the building and zoning officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal is filed with the building and zoning officer, that by reason of facts stated in the certificate, a stay would, in the building and zoning officer's opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the building and zoning officer from whom the appeal is taken and upon due cause shown. (1991 Code)

2-2-4: POWERS AND DUTIES:

The board of adjustment shall have the following powers and duties:

A. Administrative Review: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the building and zoning officer in the enforcement of the Zoning Ordinance.

B. Special Exceptions: To hear and decide only such exceptions as the board of adjustment is specifically authorized to pass on by the terms of the Zoning Ordinance.

C. Variances: To authorize upon appeal in specific cases such variances from the terms of the Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. A variance from the terms of this Chapter shall not be granted by the board of adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - b. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Ordinance.
 - c. That the special conditions and circumstances did not result from the actions of the applicant.
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
2. The board of adjustment shall make findings that the requirements have been met by the applicant for a variance.
3. The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.
4. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of the Zoning Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
5. The application for a variance shall be accompanied by a fee to be determined by resolution of the City Council.
6. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Zoning Ordinance.

D. Moving of Buildings: To authorize the issuance of a permit to move a structure within the corporate limits of the City pursuant of Section 8-6-4 of this Code. (1991 Code)

2-2-5: DECISIONS OF BOARD OF ADJUSTMENT:

In exercising the above mentioned powers, the board of adjustment may, so long as such action is in conformity with the terms of this Chapter, reverse, or affirm, wholly or partly, or may modify the order, requirements, decisions, or determination as ought to be made and to that end shall have powers of the building and zoning officer from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the building and zoning officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter, or to effect any variation in application of this Chapter. (1991 Code)

2-2-6: APPEALS FROM BOARD OF ADJUSTMENT:

Any person or persons, or any board, taxpayer, department, or bureau of the community aggrieved by any decision of the board of adjustment may seek review of such decision of the board of adjustment by a court of record in the manner provided by the laws of the State and particularly by chapter 414, Code of Iowa. (1991 Code)

CHAPTER 3

CIVIL SERVICE COMMISSION

SECTION:

2-3-1: Duties

2-3-2: Rules

Notes

- ¹ 1. See also subsection 1-7-3C of this code.

2-3-1: DUTIES:

The civil service commission shall qualify as provided by law and shall have and perform such duties as are or may be provided by law or ordinance. (Ord. 14, 12-7-1953; 1991 Code)

2-3-2: RULES:

The civil service commission may prescribe such rules for the conduct of its work and for the examination of its applicants as it may deem necessary and proper. (Ord. 710, 9-20-2010)

CHAPTER 4

COMPENSATION ADVISORY BOARD ¹

SECTION:

2-4-1: Compensation Review

2-4-2: Council Action

2-4-3: Administration

2-4-4: Termination

Notes

- ¹ 1. See also subsection 1-7-3F of this code.

2-4-1: COMPENSATION REVIEW:

The duties of the board shall be to meet during each odd numbered year between the date of July 1 and September 1 to consider and review the compensation prescribed by ordinance for elected officers of the city, as listed in section 1-7-1 of this code, and to consider and review compensation for municipal utility board members appointed pursuant to subsection 1-7-3L of this code.

The board shall review the compensation of all such officials and shall present a written recommendation and oral report to the city council concerning the compensation of elected officials at the first regular meeting in September in each odd numbered year. In reviewing the compensation and making recommendations, the board shall consider compensation paid to comparable officers in other cities, to the compensation of comparable county officers, and shall consider compensation, trends and factors from the private sector. The board shall also consider the duties and obligations of the officers, the time reasonably necessary to perform the officers' functions, the difficulty and requirements of the officers' duties and other factors which the board determines to be relevant. (Ord. 372, 6-5-1989)

2-4-2: COUNCIL ACTION:

After receiving the recommendations and report of the compensation advisory board, the city council may, but is not required to, by ordinance, change the compensation of any such official, subject to the requirements of state law. However, the city council may not increase the compensation of any such official to an amount greater than that recommended by the compensation advisory board. (Ord. 372, 6-5-1989)

2-4-3: ADMINISTRATION:

At its first meeting in July of each odd numbered year, the board shall elect from its membership a chairman and vice chairman.

The city clerk or the city clerk's designee shall act as secretary of the board. The city manager and other city officials, as requested by the board, shall assist and advise the board in the performance of its duties.

The board shall be entitled to utilize office space, storage space, and other necessary resources of the city available at city hall in the performance of its duties.

All records and proceedings of the board shall be retained by the city clerk as part of the records of the city. (Ord. 372, 6-5-1989)

2-4-4: TERMINATION:

The council may terminate the board created hereunder at any time. The procedure for termination shall be as set forth in section 392.7 of the Iowa Code, 1989, as amended. (Ord. 372, 6-5-1989)

CHAPTER 5

UTILITIES BOARD ¹

SECTION:

2-5-1: Purpose

2-5-2: Jurisdiction

2-5-3: Powers And Duties

Notes

- ¹ 1. See subsection 1-7-3L of this Code.

2-5-1: PURPOSE:

The purpose of this Chapter is to confirm and continue the Spencer Municipal Utilities Board of Trustees, and to specify the powers and duties of the Utilities Board. (Ord. 221, 11-27-1978)

2-5-2: JURISDICTION:

The Utilities Board shall be the governing body of the Spencer Electric Utility, Water Utility, Steam Utility, and Broad Band Cable Communications Utility. (Ord. 221, 11-27-1978; Ord. 479, 7-7-1997)

2-5-3: POWERS AND DUTIES:

The Utilities Board shall have and exercise all of the powers and duties conferred by the State upon a municipality and those additional powers not in conflict with the laws of the State regarding the establishment and operation of Municipal electric, water, steam heat, and broad band cable communications utilities. The provisions of chapter 388 of the Iowa Code, and all subsequent additions or amendments thereto or replacements thereof, are hereby incorporated herein by this reference. (Ord. 221, 11-27-1978; Ord. 479, 7-7-1997)

CHAPTER 6

LIBRARY BOARD ¹

SECTION:

2-6-1: Purpose

2-6-2: Public Library

2-6-3: Powers and Duties

2-6-4: Power to Contract with Others for Use of Library

2-6-5: Nonresident Use of Library

2-6-6: Library Account

2-6-7: Annual Report

2-6-8: Severability Clause

Notes

- ¹ 1. See also Section 1-7-3I of this Code.

2-6-1: PURPOSE:

The purpose of this Chapter is to provide for the establishment of a public library for the city and for the creation and appointment of a City Library Board of Trustees and to specify that Board's powers and duties. (Ord. 180, 8-18-75)

2-6-2: PUBLIC LIBRARY:

There is hereby established a public library for the City of Spencer, to be known as the Spencer Municipal Library. (Ord. 180, 8-18-75)

2-6-3: POWERS AND DUTIES:

The Board shall have and exercise the following powers and duties, to:

- A. Meet and elect from its members a president, vice president, secretary and treasurer, and such other officers as it deems

necessary.

- B. Have charge, control and supervision of the Public Library, grounds, appurtenances, fixtures and rooms containing the same.
- C. Direct and control all the affairs of the Library.
- D. Employ a librarian, and to authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and to fix their compensation.
- E. Remove by a two-thirds ($\frac{2}{3}$) vote of the Board the Librarian and to provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty.
- F. Select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
- G. Make and adopt, amend, modify or repeal rules and regulations, not inconsistent with ordinances and the law of the State, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
- H. Have exclusive control of the expenditure of all funds allocated for library purposes by the Council, and of all monies available by gift or otherwise, and of all other monies belonging to the Library including fines and rentals collected under the rules of the Board.
- I. Accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property, subject to the approval of the Spencer City Council and pursuant to the provisions of section 364.7 of the Iowa Code; and to expend the funds received by them from such gifts, for the improvement of the Library.
- J. Keep a record of its proceedings.
- K. Have authority to make agreements with the local County Historical Associations, and to set apart the necessary room and to care for such articles as may come into the possession of the Association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes. (Ord. 20, 12-7-53; Ord. 180, 8-18-75)

2-6-4: POWER TO CONTRACT WITH OTHERS FOR USE OF LIBRARY:

- A. Contracting: The Board may contract with any other boards of trustees of free public libraries, any other city, school corporation, private or semi-private organization, institution of higher learning, township or county, or with the trustees of any county library district for the use of the library by their respective residents.
- B. Termination: Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent (5%) in number of the electors who voted for Governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that it is held in the territory of the party who is seeking to terminate the contract. (Ord. 180, 8-18-75)

2-6-5: NONRESIDENT USE OF LIBRARY:

The Board may authorize the use of the library by nonresidents in any one or more of the following ways, by:

- A. Lending the books or other materials of the library to nonresidents on the same terms and conditions as to residents of the city, or upon payment of a special nonresident library fee.
- B. Establishing depositories of library books or other materials to be loaned to nonresidents.
- C. Establishing bookmobiles or a traveling library so that books or other library materials may be loaned to nonresidents.
- D. Establishing branch libraries for lending books or other materials to nonresidents.
- E. Authorizing the use of the library by nonresidents of the city and to fix charges therefor as and if deemed necessary. (Ord. 20, 12-7-1953; Ord. 180, 8-18-1975)

2-6-6: LIBRARY ACCOUNT:

All money appropriated by the council from the general fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be paid for only on order of the board, signed by its president and secretary, or their designees. (Ord. 180, 8-18-1975)

2-6-7: ANNUAL REPORT:

The board shall make a report to the city council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, the amount of fines collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the council. (Ord. 180, 8-18-1975)

2-6-8: SEVERABILITY CLAUSE:

If any section, provision or part of this chapter shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole or any section, provision or part not adjudged invalid or unconstitutional. (Ord. 180, 8-18-1975)

HOSPITAL BOARD ¹

SECTION:

2-7-1: Statutory Provisions

2-7-2: Organization

2-7-3: Treasurer

2-7-4: Authority

Notes

- ¹ 1. See also subsection 1-7-1C of this code.

2-7-1: STATUTORY PROVISIONS:

This chapter is passed pursuant to the code of Iowa and all the provisions thereof as now or hereafter enacted are by reference made a part hereof and incorporated into this chapter and shall control the management of the hospital. (Ord. 21, 12-18-1953)

2-7-2: ORGANIZATION:

Following a regular city election, the trustees shall organize as a hospital board by electing one of their number chairman and one as secretary. (Ord. 21, 12-18-1953; 1991 Code)

2-7-3: TREASURER:

The treasurer of the board shall be appointed by the board of trustees. The treasurer shall receive and pay out all funds under control of the board as ordered by it. (Ord. 21, 12-18-1953; 1991 Code; Ord. 626, 6-6-2005)

2-7-4: AUTHORITY:

The board of trustees shall have authority to provide for the management, control and government of the city hospital as it may now or hereafter exist and shall provide all needed rules and regulations for the economic conduct thereof.

The board of trustees and its officers shall make complete report on January 1 of each year and at such other time or times as the council may direct.

In the management of the hospital, no discrimination shall be made against practice of any school of medicine recognized by the laws of the state. (Ord. 21, 12-18-1953)

CHAPTER 8

PARK BOARD ¹

SECTION:

2-8-1: Park Board Created

2-8-2: Board Organization

2-8-3: Duties Of Board

2-8-4: Reserved

2-8-5: Reports

2-8-6: Transfer Of Property

2-8-7: Limitation On Indebtedness

Notes

- ¹ 1. See subsection 1-7-3N of this code.

2-8-1: PARK BOARD CREATED:

A park board is hereby created to control and supervise parks and recreational areas of the city and the plan for the city's recreational and park needs. (Ord. 185, 10-20-1975)

2-8-2: BOARD ORGANIZATION:

At the first meeting of each calendar year, the board shall choose from its number a chairman who shall serve for a period of one year. (Ord. 185, 10-20-1975; Ord. 255, 5-10-1982; 1991 Code)

2-8-3: DUTIES OF BOARD:

The park board shall have control and supervision of the parks and recreational facilities of the city, either within or outside the corporate limits, including the campgrounds, aquatic center, tennis courts and trails.

The board shall additionally have the responsibility for maintenance and plantings of the "boulevard" areas in First Avenue East, West 10th Street and East 10th Street, and also on North Grand Avenue, subject to the jurisdiction of the department of public works and, in regard to Grand Avenue, the Iowa department of transportation. The board shall accomplish planting, care and trimming of trees, shrubbery and turf in such areas.

The board shall also plan for the future recreational needs of the city and shall, from time to time as the board deems necessary or upon request of the council, advise the council as to future plans for meeting the recreational needs of the citizens of Spencer.

The park board shall not have authority or responsibility for the Spencer municipal golf course, which is governed by the golf course board. (Ord. 185, 10-20-1975; Ord. 478, 2-17-1997)

2-8-4: RESERVED:

(Ord. 185, 10-20-1975; Ord. 590, 9-15-2003)

2-8-5: REPORTS:

The board shall make written reports to the council of its activities from time to time as it deems advisable or upon council request. Its revenues and expenditures shall be reported monthly by the clerk in the manner of other departmental expenditures and a copy shall be provided to each member of the board and in the clerk's report to the council. (Ord. 185, 10-20-1975)

2-8-6: TRANSFER OF PROPERTY:

The park board shall have the power to sell, subject to the approval of the city council, exchange or lease any real estate acquired by it which shall, in the discretion of the park board, be unfit, not desirable, unnecessary or not required for park purposes, and the board shall keep a record of all such transactions. (Ord. 185, 10-20-1975)

2-8-7: LIMITATION ON INDEBTEDNESS:

The park board shall not incur any indebtedness in excess of the amount budgeted except as otherwise authorized by the council. (Ord. 185, 10-20-1975)

CHAPTER 9

AIRPORT BOARD ¹

SECTION:

2-9-1: Purpose

2-9-2: Definitions

2-9-3: Jurisdiction

2-9-4: Powers and Duties

2-9-5: Limitations

2-9-6: Budget

2-9-7: Airport Account

2-9-8: Annual Report

2-9-9: Termination

2-9-10: Chapter Adopted

Notes

¹ 1. See also Section 1-7-3A of this Code.

2-9-1: PURPOSE:

The purpose of this Chapter is to provide for the creation of a City Airport Board of Trustees, and to specify the Board's powers and duties. (Ord. 203, 1-3-77)

2-9-2: DEFINITIONS:

AVIATION FACILITY: Shall mean and include buildings, structures, terminal buildings, hangars, lands, warehouses and other aviation facilities of any kind or nature related to or connected with the Spencer Municipal Airport.

BOARD: The governing body of the Spencer Municipal Airport.

PERSON: Any individual, firm, partnership, corporation, company, association or joint stock association and includes any trustee, receiver, assignee or similar representative thereof.

SPENCER MUNICIPAL AIRPORT: The real estate, fixtures and appurtenances composing the Spencer Municipal Airport at the time of adoption of this Chapter and as thereafter modified, enlarged or reduced. (Ord. 203, 1-3-77)

2-9-3: JURISDICTION:

The Airport Board shall be the governing body of the Spencer Municipal Airport; exercising all of the rights, duties and powers conferred by this Chapter or necessarily incident thereto. (Ord. 203, 1-3-77)

2-9-4: POWERS AND DUTIES:

The Board shall have and exercise the following powers and duties, to:

- A. Meet and elect from its members a president, a secretary and such other officers as deemed necessary.
- B. Have charge, control and supervision of the Spencer Municipal Airport and all facets thereof.
- C. Sue and be sued.
- D. Acquire, hold, construct, improve, maintain, operate, own and lease as lessor or lessee, aviation facilities and to sell or otherwise dispose of Municipal Airport property and to execute deeds and other documents in regard thereto, subject to the restrictions set out below.
- E. Establish and collect rates, fees, rentals and other charges for the services and facilities of the Spencer Municipal Airport or any part thereof.
- F. Make contracts of every kind and nature and to execute all instruments necessary or convenient for the caring of the business of the Spencer Municipal Airport, without prior approval of the Council, pursuant to section 392.3 of the Code of Iowa, as amended.
- G. Accept grants, gifts or contributions from any source and to enter into contracts, leases or other transactions with Municipal, County, State or Federal government entities.
- H. Have the power of eminent domain; such power to be exercised in the manner provided by law for municipal corporations of the State.
- I. Employ technical experts necessary to assist the Board in carrying out any powers granted hereby including, but not limited to, architects, engineers, attorneys, fiscal advisors and aviation consultants, subject to budget limitations.
- J. Employ such persons as may be deemed necessary for the proper administration and operation of the Spencer Municipal Airport.
- K. Do all acts and things necessary or convenient for the promotion of the Spencer Municipal Airport and in order to carry out the powers granted to the Board by this Chapter or any other ordinance or statute.
- L. Make and adopt, amend, modify or repeal rules and regulations not inconsistent with the ordinances of the City and the laws of the State, for the care, use and management of the Spencer Municipal Airport. (Ord. 203, 1-3-77)

2-9-5: LIMITATIONS:

The Board shall be limited in its operation and authority as follows:

- A. The Board shall not enter into any lease of a term of more than three (3) years without the prior permission of the City Council, following publication of notice and hearing as required by law.
- B. The Board shall not dispose of any real property without the prior approval of the City Council.
- C. The Board shall not have the power to borrow money, issue bonds or other obligations without the consent of the City Council. The Board shall have the authority to collect and use, for the purposes set out herein, all revenues generated from the operation of the Spencer Municipal Airport, except that no provision hereof shall in any way affect the validity of any outstanding revenue bonds relating to the Spencer municipal airport. To the extent any such revenue bonds are outstanding at the time of implementation of this chapter, the revenues of the Spencer municipal airport reserved for the payment of any such revenue bonds prior to the enactment of this chapter shall continue to be allocated of the payment of such bonds until they are completely and finally paid. The board shall not have the power or authority to take any action contrary to the provisions of this subsection. (Ord. 203, 1-3-1977)

2-9-6: BUDGET:

Funding for the operation of the Spencer municipal airport and the operation and activities of the board shall derive from three (3) primary sources: a) revenue from airport operations not otherwise encumbered, b) budget allocations of the city council, and c) grants, donations, gifts or contributions from any source. (Ord. 203, 1-3-1977)

2-9-7: AIRPORT ACCOUNT:

All money appropriated by the city council from the general fund for the operation and maintenance of the airport and all monies from other sources shall be set aside in an airport account. Disbursements shall be made only on order of the board, signed by its president and secretary or their designees. (Ord. 203, 1-3-1977)

2-9-8: ANNUAL REPORT:

The board shall make a report to the city council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the Spencer municipal airport and its facilities, the amount of revenues collected from the operations of the airport during the year and such other information as may be required by the council. (Ord. 203, 1-3-1977)

2-9-9: TERMINATION:

The city council may terminate the board created hereunder at any time; provided, that provisions are made for the payment of any obligations incurred by the board under authority of this chapter, which are outstanding at the time of termination. The procedure for termination shall be as set forth in section 392.7, code of Iowa, as amended. (Ord. 203, 1-3-1977)

2-9-10: CHAPTER ADOPTED:

This chapter is adopted, and the administrative agency created herein shall be governed, by and pursuant to the provisions of the code of Iowa, as presently amended, and this chapter shall be liberally construed in light of said statutes. (Ord. 203, 1-3-1977)

CHAPTER 10

GROW SPENCER COMMISSION

SECTION:

2-10-1: Purpose

2-10-2: Creation; Purpose

2-10-3: Powers And Duties

2-10-4: Limitations

2-10-5: Termination

2-10-1: PURPOSE:

The purpose of this chapter is to provide for the creation of the "Grow Spencer Commission" and to specify the procedures and duties of the commission. (Ord. 827, 3-5-2018)

2-10-2: CREATION; PURPOSE:

There is hereby established the "Grow Spencer Commission" to advise and assist the Mayor, Council and City staff in the areas of City vision and mission statement; design of City logos and marketing materials; quality of life issues; and retail, industrial and commercial economic development. (Ord. 827, 3-5-2018)

2-10-3: POWERS AND DUTIES:

The commission shall have and exercise the following powers and duties:

- A. Meet and elect from its members a Chairperson and Secretary.
- B. Establish a meeting schedule, meeting location, and provisions for calling, holding, and conducting meetings.
- C. The commission shall be authorized to utilize meeting space at the Spencer City Hall; to utilize the facilities, furnishings and equipment of City Hall; to be provided appropriate supplies and materials by the City; and shall be entitled to request the advice and assistance of City staff.
- D. The City Manager shall be a liaison and advisor to the commission and shall advise, assist and aid in the direction of commission activities.
- E. The Mayor shall be an ex officio member of the commission.
- F. The commission may employ technical experts necessary to assist the commission in accomplishing its mission, subject to the approval of the Spencer City Council.
- G. The commission shall be subject to the Open Records and Open Meetings Statutes of the State of Iowa.
- H. The commission shall:
 1. Identify and catalog groups and organizations in the community engaged in activities related to the commission's purpose and communicate with these groups.
 2. Identify goals to be accomplished by the commission.
 3. Prepare and implement action plans to achieve commission goals.
 4. Make recommendations to the Mayor and Council in support of the commission's goals and purpose. (Ord. 827, 3-5-2018)

2-10-4: LIMITATIONS:

The commission shall be limited in its operation and authority as follows:

- A. The commission shall not have authority or jurisdiction over any City real property.
- B. The commission shall not have the power to borrow money, issue bonds, or other obligations, or to enter into contracts without the approval of the City Council.
- C. The commission shall have only such budget allocation as is approved by the Council and the Finance Officer, but, may seek approval of expenditures by the City Council. (Ord. 827, 3-5-2018)

2-10-5: TERMINATION:

The City Council may terminate the commission created hereunder at any time. The procedure for termination shall be as set forth in section 392.7 of the Iowa Code, as amended. (Ord. 827, 3-5-2018)

CHAPTER 11

SECTION:

2-11-1: Purpose

2-11-2: Definitions

2-11-3: Jurisdiction

2-11-4: Powers and Duties

2-11-5: Limitations

2-11-6: Budget

2-11-7: Municipal Golf Course Account

2-11-8: Annual Report

2-11-9: Termination

2-11-10: Rules and Regulations

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Notes

- ¹ 1. See also Section 1-7-3H of this Code.

2-11-1: PURPOSE:

The purpose of this Chapter is to provide for the creation of the Spencer Municipal Golf Course Board, and to specify the Board's powers and duties. (Ord. 307, 11-5-84)

2-11-2: DEFINITIONS:

BOARD: For the purposes of this Chapter, the term "Board" shall mean the governing body of the Spencer Municipal Golf Course.

PERSON: Any individual, firm, partnership, corporation, company, association or joint stock association and includes any trustee, receiver, assignee or similar representative thereof.

SPENCER MUNICIPAL GOLF COURSE: That real property designated as the "Spencer Municipal Golf Course", of which a legal description is on file in the office of the City Clerk, together with all improvements and appurtenances thereto. (Ord. 307, 11-5-84)

2-11-3: JURISDICTION:

The Board shall be the governing body of the Spencer Municipal Golf Course; exercising all of the rights, duties and powers conferred by this Chapter or necessarily incident thereto. (Ord. 307, 11-5-84)

2-11-4: POWERS AND DUTIES:

The Board shall have and exercise the following powers and duties, to:

- A. Meet and elect from its members a chairman, a secretary and such other officers as deemed necessary.
- B. Have charge, control and supervision of the Spencer Municipal Golf Course and all facets thereof.
- C. Sue and be sued.
- D. Acquire, hold, construct, improve, maintain, operate, own and lease as lessor or lessee, golfing facilities in the name of the City, subject to the restrictions set out below.
- E. Establish and collect rates, fees, rentals and other charges for the services and facilities of the Spencer Municipal Golf course or any part thereof.
- F. Make contracts of every kind and nature and to execute all instruments necessary or convenient for the conduct of the business of the Spencer Municipal Golf Course, without prior approval of the Council, pursuant to section 392.3 of the Code of Iowa, as amended.

However, the Board is not authorized to and may not incur expense or obligation in an amount in excess of the total funds under its direct control, which funds are described in Section 2-11-6.

- G. Accept grants, gifts or contributions from any source.
- H. Employ technical experts necessary to assist the Board in carrying out any powers granted herein including, but not limited to, architects, engineers, attorneys, fiscal advisors and golf course consultants, subject to budget limitations.
- I. Employ such persons as may be deemed necessary for the proper administration and operation of the Spencer Municipal Golf Course.
- J. Do all acts and things necessary or convenient for the promotion of the Spencer Municipal Golf Course and in order to carry out

the powers granted to the Board by this Chapter or any other ordinance or statute.

K. Make and adopt, amend, modify or repeal rules and regulations not inconsistent with the ordinances of the City and laws of the State, for the care, use and management of the Spencer Municipal Golf Course. (Ord. 307, 11-5-84)

2-11-5: LIMITATIONS:

The Board shall be limited in its operations and authority as follows:

A. The Board shall not enter into any lease of a term of more than three (3) years without the prior permission of the City Council, following publication of notice and hearing as required by law.

B. The Board shall not dispose of any real property without the prior approval of the City Council.

C. The Board shall not have the power to borrow money, issue bonds or obligations without the consent of the City Council. The Board shall have the authority to collect and use, for purposes set out herein, all revenues generated from the operation of the Spencer Municipal Golf Course, except that no provision hereof shall in any way affect the validity of any outstanding revenue bonds or obligations relating to the Spencer Municipal Golf Course. To the extent any such obligations are outstanding at the time of implementation of this chapter, the revenues of the Spencer municipal golf course reserved for the payment of any such obligations prior to the enactment of this chapter shall continue to be allocated to the payment of such obligations until they are completely and finally paid. The board shall not have the power or authority to take any action contrary to the provisions of this subsection. (Ord. 307, 11-5-1984)

2-11-6: BUDGET:

Funding for the operation of the Spencer municipal golf course and the operation and activities of the board shall derive from three (3) primary sources:

A. Revenue from golf course operations not otherwise encumbered;

B. Budget allocations of the city council; and

C. Grants, donations, gifts or contributions from any source. (Ord. 307, 11-5-1984)

2-11-7: MUNICIPAL GOLF COURSE ACCOUNT:

All money appropriated by the city council from the general fund for the operation and maintenance of the golf course and all monies from other sources as described in section 2-11-6 of this chapter shall be set aside in a golf course account. Disbursements shall be made only on order of the board, signed by its chairman and secretary or their designees. (Ord. 307, 11-5-1984)

2-11-8: ANNUAL REPORT:

The board shall make a report to the council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the Spencer municipal golf course and its facilities, the amount of revenues collected from the operations of the golf course during the year and such other information as may be required by the city council. (Ord. 307, 11-5-1984)

2-11-9: TERMINATION:

The city council may terminate the board created hereunder at any time; provided, that provisions are made for the payment of any obligations incurred by the board under authority of this chapter, which are outstanding at the time of termination. The procedure for termination shall be as set forth in section 392.7, code of Iowa, as amended. (Ord. 307, 11-5-1984)

2-11-10: RULES AND REGULATIONS:

The board shall make and adopt rules and regulations for use of the Spencer municipal golf course, subject to approval by the city council. Upon approval by the council, a copy of said rules and regulations shall be made available to the public at the office of the city clerk and at the Spencer municipal golf course clubhouse. (Ord. 307, 11-5-1984)

CHAPTER 12

FIREMEN AND POLICEMEN RETIREMENT BOARDS

(Rep. by Ord. 698, 3-1-2010)

CHAPTER 13

ELECTRICAL BOARD

SECTION:

2-13-1: Short Title

2-13-2: Purpose And Scope

2-13-3: Definitions

2-13-4: Electrical Contractor's License

2-13-4-1: Class B State License

2-13-5: Master Electrician's License

2-13-6: Journeyman Electrician's License

2-13-7: License Required

2-13-8: Homeowners

2-13-9: Electrical Board Creation

2-13-10: Applications For Examinations (Rep. by Ord. 801, 4-4-2016)

2-13-11: Examinations; How Conducted (Rep. by Ord. 801, 4-4-2016)

2-13-12: Reexaminations (Rep. by Ord. 437, 3-15-1993)

2-13-13: Annual License Fees

2-13-14: Expiration Of Licenses

2-13-15: Reciprocity

2-13-16: Electrician's Bond And Insurance

2-13-17: License Revocation Or Suspension

2-13-18: Revocation And Suspension Procedures

2-13-19: Summary Suspension

2-13-20: Appeal

2-13-21: Transfer Of License

2-13-22: Penalty

2-13-23: Exemptions

Notes

¹ 1. See also subsection 1-7-3G1 of this code.

2-13-1: SHORT TITLE:

This chapter shall be known as the *SPENCER, IOWA, ELECTRICIANS' LICENSING ORDINANCE* and may be so cited. (Ord. 296, 5-21-1984, eff. 6-1-1984)

2-13-2: PURPOSE AND SCOPE:

The purpose of this chapter is to provide for the licensing of electrical contractors, master electricians and journeyman electricians in order to protect the public safety, health and welfare.

The provisions of this chapter shall not apply to any of the following: regular employees of a public utility who do electrical work for such public utility only; the electrical work of a telephone or telegraph company, nor the persons performing electrical work for such a company, where such electrical work is an integral part of the plant used by such telephone or telegraph company in rendering its duly authorized service to the public; regular employees of any railroad who do electrical work only as a part of that employment; and city, county and state employees on work related to their employment. (Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 801, 4-4-2016)

2-13-3: DEFINITIONS:

For use in this chapter, the following terms are defined:

ELECTRICAL CONTRACTING: Undertaking, or offering to undertake, the planning or supervision of electrical work.

ELECTRICAL CONTRACTOR: Any person, partnership, firm, corporation or association who has the necessary qualifications, training, experience and technical knowledge to plan or supervise electrical work.

ELECTRICAL EQUIPMENT: All electrical materials, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

ELECTRICAL WORK: All installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnections and maintenance of all electrical equipment.

JOURNEYMAN ELECTRICIAN: A person who has the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work, under the direction of a master electrician.

LICENSED: Licensed under this chapter unless otherwise specified.

MASTER ELECTRICIAN: A person who has the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work.

SHALL: If the word "shall" is used, the meaning is that the act to be performed is mandatory. (Ord. 296, 5-21-1984, eff. 6-1-1984)

2-13-4: ELECTRICAL CONTRACTOR'S LICENSE:

No person shall engage in electrical contracting within the city unless such person shall have obtained from the city an electrical contractor's license or shall hold a current valid license (except a class B license) issued by the state electrical examining board appropriate to the work to be performed. In the case of a partnership, corporation or any other association organized to engage in electrical contracting, every partner, associate, officer, director or manager who is actually engaged as an "electrical contractor" as defined in section 2-13-3 of this chapter shall be licensed. Persons acting pursuant to a state issued license shall provide a copy of such license to the city clerk. (Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 677, 9-15-2008)

2-13-4-1: CLASS B STATE LICENSE:

If an individual does not hold an electrician's license issued by the city of Spencer and holds only a class B license issued by the state electrical examining board, that person shall not perform electrical work in the city of Spencer unless and until the city electrical inspector determines, upon consideration of the applicant's training, experience and such practical testing or demonstration of proficiency as the electrical inspector may require, that the person is competent to safely perform the proposed project.

If the electrical inspector determines that a holder of a class B state license is competent to perform electrical work in the city of Spencer for which a permit is sought, the inspector shall so note on the permit and the holder of the class B state license may accomplish the work after filing a copy of the state license with the city clerk. (Ord. 677, 9-15-2008)

2-13-5: MASTER ELECTRICIAN'S LICENSE:

A master electrician must have had six (6) months' experience as a journeyman electrician. The applicant must demonstrate ability to design, lay out, supervise and coordinate any type of electrical work encountered in day to day work in the city and successfully pass the examination required for a master electrician's license. (Ord. 296, 5-21-1984, eff. 6-1-1984)

2-13-6: JOURNEYMAN ELECTRICIAN'S LICENSE:

A journeyman electrician shall be competent to install all types of electrical equipment under the supervision of the holder of a master electrician's license. He must have had at least three (3) years' experience as an apprentice or the equivalent as determined by the electrical board and must successfully pass the examination required for a journeyman's license. (Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 801, 4-4-2016)

2-13-7: LICENSE REQUIRED:

No person shall engage in doing electrical work unless licensed as an electrical contractor, master electrician or journeyman electrician, except as provided in this section and section 2-13-8 of this chapter.

Apprentices and helpers employed to assist a licensed electrician need not be licensed; provided, however, that such apprentices and helpers perform their work under the direct supervision of a licensed journeyman or master electrician, who shall be physically present at the work site at all times when electrical work is being performed. No licensed electrician shall supervise more than three (3) apprentices and helpers at any one time. (Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 629, 7-18-2005, eff. 1-1-2007; Ord. 677, 9-15-2008)

2-13-8: HOMEOWNERS:

The owner or owners of a single-family dwelling or mobile home, including the usual accessory buildings and quarters used exclusively for living purposes, may do electrical work without a license if he demonstrates his capability to do such work to the satisfaction of the electrical inspector; provided, that the dwelling or mobile home will be occupied by the owner or owners and that a permit is used as provided in the Spencer, Iowa, electrical code ¹. (Ord. 296, 5-21-1984, eff. 6-1-1984)

Notes

- ¹ 1. See title 8, chapter 3 of this code.

2-13-9: ELECTRICAL BOARD CREATION ¹ :

There is hereby created an electrical board.

A. City Electrical Inspector: The city electrical inspector shall serve as secretary to the board and shall keep minutes and records of proceedings of the board and shall record the names and addresses of all persons licensed by the board, the type of license issued to each licensee and the date thereof.

B. Quorum: Two (2) voting members of the electrical board shall constitute a quorum for the transaction of business.

C. Chairman: The electrical board shall elect annually one of its members as chairman. The chairman shall preside at all meetings of the board.

D. Meetings: The electrical board shall hold an annual meeting in the first week of February of each year. The board shall hold such special meetings as may be necessary for the proper performance of its duties. The secretary and chairman shall be responsible for scheduling all special meetings. (Ord. 296, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 801, 4-4-2016)

Notes

- ¹ 2. See also subsection 1-7-3G of this code.

2-13-10: APPLICATIONS FOR EXAMINATIONS:

(Rep. by Ord. 801, 4-4-2016)

2-13-11: EXAMINATIONS; HOW CONDUCTED:

(Rep. by Ord. 801, 4-4-2016)

2-13-12: REEXAMINATIONS:

(Rep. by Ord. 437, 3-15-1993)

2-13-13: ANNUAL LICENSE FEES:

Before any license is issued, the applicant shall pay an annual license fee. The annual license fee for each electrical contractor shall be forty dollars (\$40.00). Said fee shall include the cost of licensing one master electrician, whose name shall appear on the face of the electrical contractor's license. The annual license fee for master electricians shall be twenty dollars (\$20.00). The annual license fee for journeyman electricians shall be fifteen dollars (\$15.00), and the annual license fee for an apprentice electrician shall be ten dollars (\$10.00). (Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 437, 3-15-1993; Ord. 623, 4-18-2005, eff. retroactive to 4-1-2005)

2-13-14: EXPIRATION OF LICENSES:

All licenses issued by the board shall expire on March 31, regardless of when issued. All licenses must be renewed within thirty (30) days prior to the expiration date; provided, however, that expired licenses may be renewed without examination within thirty (30) days after the expiration date upon payment of a penalty of five dollars (\$5.00).

In order to implement this section, all renewed electricians' licenses shall be renewed for a period beginning July 1, 2002, and ending March 31, 2003. The license renewal fee for this nine (9) month transitional period shall be seventy five percent (75%) of the annual fees.

All new electricians' licenses issued after the effective date hereof shall expire on March 31, 2003. (Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 568, 5-6-2002)

2-13-15: RECIPROCITY:

The electrical inspector may issue a license without examination, upon payment of the required fees, to the holder of an electrician's license from another municipal corporation recognized by the inspector as having similar licensing standards to the city of Spencer. The electrical inspector shall periodically advise the members of the electrical board, in writing, of the names and addresses of those persons who have been issued a license under the provisions of this section. (Ord. 296, 5-21-1984, eff. 6-1-1984; Ord. 437, 3-15-1993; Ord. 661, 9-17-2007; Ord. 801, 4-4-2016)

2-13-16: ELECTRICIAN'S BOND AND INSURANCE:

Any person who has been issued a contractor's license shall execute and deposit with the city clerk a bond in the sum of fifteen thousand dollars (\$15,000.00) with sureties approved by the clerk and mayor. This bond is to be held as surety that the licensee will fulfill these conditions:

A. That all electrical work performed by the licensee or under his supervision shall be performed in accordance with the provisions of the Spencer, Iowa, electrical ordinance [1](#) .

B. That he will pay all fines and penalties properly imposed upon him for violation of this chapter and the Spencer, Iowa, electrical ordinance [2](#) .

C. That the city shall be held free from any liability sustained by reason of the negligence or incompetence of such licensee or other person working under his supervision.

Further, all licensed electrical contractors shall post and maintain proof of liability insurance with the city clerk in an amount of at least one million dollars (\$1,000,000.00) per occurrence, which shall meet the requirements that the city shall be held free from any liability by reason of the negligence or incompetence of such licensee or other person working under his supervision. (Ord. 296, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 525, 3-20-2000; Ord. 677, 9-15-2008)

Notes

[1](#) 1. See title 8, chapter 3 of this code.

[2](#) 2. See title 8, chapter 3 of this code.

2-13-17: LICENSE REVOCATION OR SUSPENSION:

In addition to penalties otherwise provided, the electrical board may order, in accordance with the provisions of section 2-13-18 or 2-13-19 of this chapter, revocation or suspension of any license issued under this chapter. (Ord. 296, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 801, 4-4-2016)

2-13-18: REVOCATION AND SUSPENSION PROCEDURES:

No order of license revocation or suspension, except as provided in section 2-13-19 of this chapter, shall be lawful unless the following requirements have been satisfied:

A. The licensee shall be served with written notice containing assertions of fact or conduct which warrant the intended action, reference to ordinance provision allegedly violated, and specifications of the time, place and nature of the hearing.

B. The electrical board shall conduct a public hearing for the purpose of resolving those issues of law and fact arising out of the individual case. Should the licensee or his authorized representative fail to appear without good cause, the board may proceed, in his absence, to a determination of the issues.

C. The licensee shall have the right to be represented by legal counsel, to testify and present witnesses in his own behalf, and to cross examine adverse witnesses.

D. The electrical board shall make and record findings of fact and conclusions of law and shall issue an order of suspension or revocation only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or the Spencer, Iowa, electrical ordinance 1. (Ord. 296, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 801, 4-4-2016)

Notes

1. See title 8, chapter 3 of this code.

2-13-19: SUMMARY SUSPENSION:

If the electrical board finds that the public health or safety requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending suspension or revocation proceedings, section 2-13-18 of this chapter. Immediately, upon issuance of an order of summary suspension, the electrical board shall institute proceedings pursuant to the requirements of section 2-13-18 of this chapter. (Ord. 296, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 801, 4-4-2016)

2-13-20: APPEAL:

In the event any person shall feel aggrieved by any action of the electrical board, he may appeal from such action to the city council by filing written notice of his appeal within ten (10) days from the date of action. The council shall give the appealing party and the electrical board five (5) days' written notice by certified mail of the date, time and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the city council may affirm, modify or overrule the action of the electrical board. Action taken by the electrical board shall be affirmed by the council if such action is supported by substantial evidence upon the whole record. (Ord. 296, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 801, 4-4-2016)

2-13-21: TRANSFER OF LICENSE:

It shall be unlawful for any license holder to transfer his license or to allow it to be used, directly or indirectly, by any other person. (Ord. 296, 5-21-1984, eff. 6-1-1984)

2-13-22: PENALTY:

Anyone violating any of the provisions of this chapter, shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days or a fine as provided in section 1-4-1 of this code. (Ord. 296, 5-21-1984, eff. 6-1-1984; 1991 Code)

2-13-23: EXEMPTIONS:

Employees or firms or individuals working under contract of or with municipal utilities, electric membership or cooperative associations, or investor owned utilities while performing work within the scope of their employment or contract are exempt from the requirements of this chapter. (Ord. 725, 7-18-2011)

CHAPTER 14

PLUMBER'S EXAMINING BOARD 1

SECTION:

2-14-1: Establishment; Purpose

2-14-2: Board Officers

2-14-3: Quorum

Notes

1. See also subsection 1-7-3K of this code.

2-14-1: ESTABLISHMENT; PURPOSE:

There is hereby established the Spencer plumbing board. The purposes of the plumbing board shall be to consider and advise the city council concerning revisions and additions to this code and as to plumbing permit requirements, to advise and assist the city plumbing inspector, and to hear and decide appeals from the decisions of the plumbing inspector. (Ord. 701, 5-3-2010)

2-14-2: BOARD OFFICERS:

The city plumbing inspector shall serve as secretary of the board and shall keep minutes and records of all proceedings of the board. The board shall elect one of its members as its chairman. The board shall hold an annual meeting on the first Tuesday of February in each year. The board shall hold special meetings at such time as may be necessary for the proper performance of its duties. The secretary and chairman shall be responsible for scheduling all special meetings. (Ord. 701, 5-3-2010)

2-14-3: QUORUM:

Two (2) voting members of the plumber's examining board shall constitute a quorum for the transaction of business. (Ord. 800, 3-21-2016)

CHAPTER 15

HISTORIC PRESERVATION COMMISSION

SECTION:

2-15-1: Purpose And Intent

2-15-2: Definitions

2-15-3: Powers Of The Commission

2-15-4: Support; Limitations

2-15-1: PURPOSE AND INTENT:

The purpose of this Chapter is to:

- A. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement, and perpetuation of sites and districts of historical and cultural significance;
- B. Safeguard the City's historic, aesthetic, and cultural heritage by preserving sites and districts of historic and cultural significance;
- C. Stabilize and improve property values;
- D. Foster pride in the legacy of beauty and achievements of the past;
- E. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;
- F. Strengthen the economy of the City;
- G. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City. (Ord. 520, 11-16-1999)

2-15-2: DEFINITIONS:

COMMISSION: The City of Spencer Historic Preservation Commission, as established by this Chapter.

HISTORIC DISTRICT: An area which contains a significant portion of archaeological sites, buildings, structures and/or other improvements which, considered as a whole, possesses integrity of location, design, setting, materials, workmanship, feeling, and association, and which:

- A. Embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
- B. Is associated with events that have made significant contributions to the broad patterns of our local, State or national history; or
- C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials, or combinations thereof, which is deemed to add significantly to the value and attractiveness of properties within such area; or
- D. Is associated with the lives of persons significant in our past; or
- E. Has yielded, or may be likely to yield, information important in prehistory or history.

HISTORIC SITE: An archaeological site, structure or building which:

- A. Is associated with events that have made a significant contribution to the broad patterns of our history; or
- B. Is associated with the lives of persons significant in our past; or
- C. Embodies the distinctive characteristics of a type, period, or method of construction, or that represents a work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
- D. Has yielded, or may be likely to yield, information important in prehistory or history. (Ord. 520, 11-16-1999)

2-15-3: POWERS OF THE COMMISSION:

- A. Studies: The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this Chapter. The Commission may proceed at its own initiative or upon a petition from any person, group, or association. The Commission shall maintain records of all studies and inventories for public use.
- B. Recommendation: The Commission may make a recommendation to the State Historic Preservation Officer for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.
- C. Establishment Of District: The Commission may make recommendations to the Council for the establishment of an historical preservation district. Upon receiving such recommendation from the Commission, the Council shall conduct a public hearing on the establishment of the proposed historical preservation district within sixty (60) days of receipt of the recommendation. The Council may approve, disapprove or may refer the recommendation back to the Commission for modification and/or further recommendations.

D. Other Powers: In addition to those duties and powers specified above, the Commission may, with City Council approval:

1. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.
2. Acquire by purchase, bequest, or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties.
3. Preserve, restore, maintain and operate historic properties, under the ownership or control of the Commission.
4. Lease, sell, and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.
5. Contract with the State or the Federal government or other organizations.
6. Cooperate with the Federal, State and local governments in the pursuance of the objectives of historic preservation.
7. Provide information for the purpose of historic preservation to the governing body.
8. Promote and conduct educational and interpretive programs on historic properties within its jurisdiction.
9. Participate in the conduct of land use, urban renewal and other planning undertaken by the City.
10. Recommend the adoption of ordinances or otherwise provide information for the purpose of historic preservation to the Council. (Ord. 520, 11-16-1999)

2-15-4: SUPPORT; LIMITATIONS:

- A. The City shall provide for the Commission meeting facilities, clerical support, supplies and materials necessary and appropriate for the Commission's operation.
- B. The Commission shall not enter into any contracts or expend any funds, except those budgeted by the City Council for the Commission's operations, without the approval of the City Council.
- C. The Commission shall not have the power to borrow money or issue bonds or other obligations without the approval of the City Council.
- D. Funding for the operation of the Commission shall be:
 1. Budget allocations of the City Council and,
 2. Grants, donations, gifts or contributions from any source. (Ord. 520, 11-16-1999)

TITLE 3

BUSINESS REGULATIONS

CHAPTER 1

REGISTRATION OF PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

SECTION:

3-1-1: Definitions

3-1-2: Registration Required

3-1-3: Application For Registration

3-1-4: Consideration Of Application

3-1-5: Fees

3-1-6: Bond Required

3-1-7: Appointment Of Agent For Service Of Process

3-1-8: Display Of Registration

3-1-9: Registration Not Transferable

3-1-10: Rebates

3-1-11: Revocation Of Registration

3-1-12: Expiration Of Registration

3-1-13: Prohibited Activities

3-1-14: Appeal

3-1-15: Zoning Regulations

3-1-16: Limited Effect Of Registration

3-1-1: DEFINITIONS:

For use in this chapter, the following terms are defined:

EXEMPT ACTIVITIES: The following specifically described activities have been determined by the council, on the basis of past practice and experience, tradition and custom to not constitute a threat or concern in regard to public safety, the prevention of crime, or fraud upon the citizens of the community, or to constitute a nuisance and are therefore hereby exempted from the provisions of this chapter:

- A. Newspaper carriers.
- B. Persons engaged in the business of delivering food, dairy products, or other materials or products customarily used in the home at the request of and pursuant to an agreement with the occupant of the premises where deliveries are made.
- C. Persons offering for sale produce or products which they have produced or manufactured shall not be considered as transient merchants, but may, depending on their proposed activities, be determined to be peddlers or solicitors.
- D. Activities conducted within the confines of the Clay County fairgrounds, in a shopping center or other commercial establishment for a period of less than ten (10) days.
- E. The sale of food or beverages for immediate consumption.
- F. Garage sales of personal property of the occupant of the premises of less than seven (7) days' duration.
- G. Auction sales of real estate or personal property at the location of the property offered for sale.
- H. Sales of products by Spencer based charitable organizations. Such organizations shall be those whose board of directors or other officers with final decision making authority are residents of Clay County, Iowa, and which organization has been determined to be a tax exempt organization by the internal revenue service.
- I. Activities conducted by insurance agents currently licensed by the state of Iowa. Such agents shall provide a copy of their current state license to the city clerk.

PEDDLER: Any person carrying goods or merchandise who sells or offers for sale or immediate delivery such goods or merchandise from house to house or place to place within the city or upon the public streets, on other public property or in public parks.

SOLICITOR: Any person who solicits or attempts to solicit from house to house or place to place or upon public streets, on other public property or in public parks orders for goods, subscriptions or merchandise to be delivered at a future date.

TRANSIENT MERCHANT: Any person who brings or causes to be brought into the city any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business and any connection with, as part of, or in the name of any local merchant, does not exempt any such person from or corporation from being considered a transient merchant.

A merchant engaging in business shall be presumed to be temporarily in business unless it is the intention of such merchant to remain continuously in business at each location within the city for a period of more than sixty (60) days.

Any person who has not been a resident of the city for a period of sixty (60) days or who has not continuously been engaged in business in the city for a period of sixty (60) days and who offers to perform services from house to house or place to place within the city shall be considered a "transient merchant" for purposes of this chapter. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990; Ord. 502, 9-8-1998; Ord. 669, 7-21-2008)

3-1-2: REGISTRATION REQUIRED:

Any person who acts as a "peddler", "solicitor" or "transient merchant", as defined in the preceding section, in this city shall register with the city clerk as in this chapter provided. Any person who engages in activities as a peddler, solicitor or transient merchant without registering with the city shall be guilty of a simple misdemeanor for each day in which such violation continues. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-3: APPLICATION FOR REGISTRATION:

An application for registration in writing shall be filed with the city clerk for registration under this chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description and recent photograph. The application shall include the applicant's employer, if any, and the employer's address, the nature of the activities to be engaged in by the applicant in the city, a description of the goods, wares or merchandise to be offered, a description of the last three (3) preceding cities in which the applicant conducted the same or similar activities, the period of time for which registration is desired, a statement as to whether or not the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude and, if so, the nature of the offense and the penalty imposed; and a description of any motor vehicles to be used by the applicant (including make, model, year, color and registration number). A fee of twenty five dollars (\$25.00) shall be paid at the time of filing such application for registration application to cover the cost of investigation and administration. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-4: CONSIDERATION OF APPLICATION:

Upon receipt of the application and the required application fee, the clerk, with the assistance of the chief of police, shall investigate the application. If the statements contained in the application are found to be true and correct, the clerk shall issue a registration certificate to the applicant conforming to the application. However, the clerk shall not approve a registration under any of the following

circumstances:

A. The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude.

B. The application is determined to contain any false statement or information.

C. The activities of the applicant as a solicitor, peddler or transient merchant have been the subject of complaints by citizens in this city or in other cities where the applicant has conducted business; which complaints cannot be shown to have been resolved or explained to the satisfaction of the city clerk. (Ord. 390, 7-16-1990)

3-1-5: FEES:

In order to cover the cost of administering the provisions of this chapter, every registrant shall pay a fee of five dollars (\$5.00) per day of registration, in addition to the application fee, before a registration is approved and issued. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-6: BOND REQUIRED:

Before a registration under this chapter shall be approved, the applicant shall post with the clerk a bond, issued by a surety company authorized to insure the fidelity of others, in Iowa, in the amount of five hundred dollars (\$500.00) or, alternatively, the applicant may post cash or cash equivalent in the amount of five hundred dollars (\$500.00) conditioned to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: a) to indemnify the city for any penalties or costs occasioned by the enforcement of this chapter and b) to make payment of any judgment rendered against the registrant as the result of a claim or litigation arising out of or in connection with the registrant's activities in the city. The bond shall not be canceled or refunded until thirty (30) days after the expiration of registration. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-7: APPOINTMENT OF AGENT FOR SERVICE OF PROCESS:

The application for registration shall include a provision to the effect that the applicant shall appoint the Spencer city clerk as the agent of the applicant for purposes of service of process. The applicant agrees that service of any notice or process may be made upon said city clerk as agent and when so made shall be taken and held to be as valid as if personally served upon the applicant, according to the laws of the state of Iowa. Immediately upon service of process upon the city clerk, as herein provided, the city clerk shall send to the applicant at the address included on the application, by registered mail, a copy of said process. Such mailing shall not affect the validity of service. (Ord. 390, 7-16-1990)

3-1-8: DISPLAY OF REGISTRATION:

Each person registered under this chapter shall at all times when conducting activities in the city keep in his possession the registration and shall, upon the request of any person, exhibit the registration as evidence that he has complied with all requirements of this chapter. Each transient merchant shall display publicly his registration at his place of business. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-9: REGISTRATION NOT TRANSFERABLE:

Registrations issued under the provisions of this chapter are not transferable in any circumstances. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-10: REBATES:

No rebates shall be paid in regard to any registrations issued under this chapter. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-11: REVOCATION OF REGISTRATION:

The city clerk may revoke any registration issued under this chapter in the event the registrant violates any city ordinance or law of the state of Iowa. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-12: EXPIRATION OF REGISTRATION:

All registrations under this chapter shall expire at eight o'clock (8:00) P.M. on the last day for which the registration is issued. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990)

3-1-13: PROHIBITED ACTIVITIES:

No person acting under authority of registration under this chapter shall:

A. Conduct activities between the hours of eight o'clock (8:00) P.M. and eight o'clock (8:00) A.M., local time.

B. Block or obstruct the path of any pedestrian or vehicular traffic or block or obstruct any ingress or egress to public ways or buildings.

C. Sound or permit the sounding of any device which produces a loud or raucous noise or use or operate any loudspeaker, public address system, radio sound amplifier, or similar device to attract attention. (Ord. 390, 7-16-1990)

3-1-14: APPEAL:

Any applicant aggrieved by the refusal of the city clerk to issue a registration or by the revocation of a registration under this chapter shall have the right to appeal the city clerk's decision to the city council. Such appeal shall be requested by submitting a written request to the mayor within five (5) days of the action of the city clerk which is appealed.

The city council shall consider the appeal at its next regularly scheduled meeting; at which time, the applicant shall be entitled to present his appeal orally or in writing. The council shall act on the appeal within seven (7) days of the hearing and shall either uphold the action of the city clerk or shall direct the issuance of a registration which the clerk had denied or the reissuance of a registration which the clerk has revoked. (Ord. 390, 7-16-1990)

3-1-15: ZONING REGULATIONS:

Persons registered under this chapter as transient merchants may conduct their activities only in areas of the city zoned C, C-1, C-2, CBD or D. (Ord. 263, 9-20-1982; Ord. 390, 7-16-1990; 1991 Code)

3-1-16: LIMITED EFFECT OF REGISTRATION:

The issuance of a registration to an applicant under this chapter shall not grant to the applicant any right to occupy any portions of public streets, alleys, sidewalks or easements beyond such rights as are enjoyed by members of the public generally.

The issuance of a registration by the city under this chapter does not indicate any approval or evaluation of any goods, merchandise, products or services offered by a registrant.

The issuance of a registration does not excuse or release any applicant from the strict compliance with all other city ordinances and state and federal statutes and regulations. (Ord. 390, 7-16-1990)

CHAPTER 2

BEER AND LIQUOR

SECTION:

3-2-1: Purpose

3-2-2: Definitions

3-2-3: Licenses And Permits

3-2-4: Action By Council

3-2-5: Transfer Of License Or Permit

3-2-6: License Or Permit Renewal

3-2-7: Suspension Or Revocation Of License

3-2-8: Miscellaneous Prohibitions

3-2-9: Consumption In Public Places; Intoxication

3-2-10: Persons Under Legal Age

3-2-11: Violations

3-2-12: Outdoor Service

3-2-13: Application For Outdoor Service Area

3-2-14: Outdoor Service Area Operations

3-2-15: Temporary Outdoor Service

3-2-16: Golf Course Outdoor Service Areas

3-2-1: PURPOSE:

The purpose of this chapter is to provide for local regulations and procedures for the sale and consumption of beer, wine and liquor and for the protection, safety, health and general welfare of the community. (Ord. 143, 12-22-1971, eff. 1-1-1972; 1991 Code)

3-2-2: DEFINITIONS:

The definitions of terms set out in section 123.3 of the Iowa Code and section 185-4.1 of the Iowa administrative code are hereby incorporated in this chapter by reference. (Ord. 143, 12-22-1971, eff. 1-1-1972; 1991 Code)

3-2-3: LICENSES AND PERMITS:

A. The classes and types of licenses and permits required for the manufacture, transportation or sale of beer, wine or liquor; the application fee and bond requirements; and all other provisions concerning licenses and permits shall be pursuant to the Iowa Code.

B. Applications for licenses or permits shall be filed with the city clerk. A period of thirty (30) days shall be allowed for investigating, processing and approval of an application by the city.

C. The presentation of an application for a liquor control license, wine permit or beer permit shall be a continuing authorization and consent that members of the city fire, police or building department may enter upon the premises covered by the permit or license at any time during hours of normal operation, without a warrant, for the purpose of inspecting and ensuring compliance with this chapter and state law.

D. Upon receipt of an original application for a liquor license, wine permit or beer permit, the application shall be forwarded to the chief of Police and the chief of the fire Department who shall conduct such investigations as they shall deem appropriate and who shall then submit to the council a report of their investigation and a recommendation concerning the approval or denial of the license or permit. (1991 Code)

3-2-4: ACTION BY COUNCIL:

A. Within thirty (30) days of its submittal the council shall consider and act upon any application presented under this chapter after considering the reports of the Police chief and fire chief and any other pertinent information, In considering the application the council shall evaluate the following factors:

1. The moral character of the applicant.

2. Compliance with all applicable requirements of the Iowa Code, the administrative rules of the Iowa Alcoholic Beverages Division, applicable building, housing, electrical and fire codes, if any, and compliance with this chapter.
 3. The ability of the applicant to continuously meet all legal requirements applicable to a licensee or a permittee.
 4. Whether the premises to be licensed are located in an appropriate zoning district and in full compliance with the zoning laws established under this Code.
 5. Whether the applicant has previously violated any ordinance, statute or rule pertaining to the manufacture, transportation or sale of alcoholic beverages.
 6. Whether the operation of the premises to be licensed can reasonably be expected to adversely affect the public health or welfare or to interfere with the use, enjoyment, or value of property in the immediate area of the proposed location.
 7. Whether the proposed location will create traffic, noise, congestion or other adverse conditions.
- B. The council shall either approve or deny the application and forward its determination to the Iowa Alcoholic Beverages Division. If the application is denied, the council shall set forth specific reasons for its denial. The council's actions shall not be arbitrary, capricious or without reasonable cause. (Ord. 143, 12-22-71, eff. 1-1-72; 1991 Code)

3-2-5: TRANSFER OF LICENSE OR PERMIT:

The council may, in its discretion, authorize a licensee or permittee to transfer a license or permit from one location to another within the city, provided that the premises to which the transfer is to be made would have been eligible for license or permit upon original application, and such transfer will not result in the violation of any statute, ordinance or applicable rule. An applicant for a transfer shall file with the application, proof of dram shop liability insurance and penal bond, if applicable, covering the premises to which the license is to be transferred. Such transfer shall be subject to the approval of the Iowa Alcoholic Beverages Division. (Ord. 143, 12-22-71, eff. 1-1-72; 1991 Code)

3-2-6: LICENSE OR PERMIT RENEWAL:

Applications for renewal of licenses or permits shall be submitted to the city clerk. A period of fifteen (15) days should normally be allowed for consideration of a renewal application. The Clerk shall provide a copy of the renewal application to the fire chief and the Police chief who shall make such further investigation, if any, which they deem warranted. The fire chief and Police chief shall advise the council of any reason or basis for denial of the renewal application. Unless facts are presented to the city council which support further investigation or denial of a renewal request, the council shall approve the renewal. If a renewal request is denied, the council shall state the specific reasons for its denial. (Ord. 143, 12-22-71, eff. 1-1-72, 1991 Code)

3-2-7: SUSPENSION OR REVOCATION OF LICENSE:

A license or permit approved under the provisions of this chapter may be suspended or revoked in accordance with State law or for violation of any of the provisions of this chapter. The council shall conduct a hearing on any proposed suspension or revocation as follows:

- A. The licensee or permittee, and the surety on the licensee's or permittee's bond, shall be served with written notice containing a copy of the complaint against the licensee or permittee, the chapter provision(s) or State statute(s) allegedly violated, and the date, time and place for a hearing on the matter.
- B. The council shall conduct a hearing, at which both the licensee or permittee and the complainant(s) shall be present, the purpose of which is to determine the truth of the facts alleged on the complaint. Should the licensee or permittee or their authorized representative fail to appear without good cause, the council may proceed to a determination on the merits of the complaint.
- C. The licensee or permittee shall have the right to be represented by Counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.
- D. The council shall admit only reliable and substantial evidence into the revocation or suspension proceedings, and shall give all admitted evidence its natural probative value.
- E. In the event that criminal charges have been brought against the licensee or permittee on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.
- F. The Council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a license or permit under this section only when, upon review of the entire record, it finds evidence of a substantial violation of this chapter or of State law. (Ord. 143, 12-22-1971, eff. 1-1-1972; 1991 Code)

3-2-8: MISCELLANEOUS PROHIBITIONS:

- A. No permit or license shall be issued for premises located within three hundred feet (300') of a public or private educational institution or a place of religious worship.
- B. No permit or license for premises not located in the appropriate zoning district as established under this Code shall be approved. (1991 Code)

3-2-9: CONSUMPTION IN PUBLIC PLACES; INTOXICATION:

It is unlawful for any person to use or consume alcoholic liquor or beer upon public streets, highways, alleys or sidewalks, or alcoholic liquors in any public place, except premises covered by a liquor control license, and no person shall be intoxicated or simulate intoxication in a public place. (Ord. 328, 2-3-1986; 1991 Code)

3-2-10: PERSONS UNDER LEGAL AGE:

No person shall sell, give or otherwise supply alcoholic liquor or beer to any person knowing or having reasonable cause to believe

him to be under legal age, and no person or persons under legal age shall individually or jointly have alcoholic liquor or beer in his or their possession or control; except in the case of liquor or beer given or dispensed to a person under legal age within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to him by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages and beer during the regular course of his or her employment by a liquor control licensee or beer permittee under State law. (Ord. 328, 2-3-1986)

3-2-11: VIOLATIONS:

Any violations of the Statutes of the State, including, without limitation, a violation of any provision of chapter 123 of the Iowa Code, shall also be deemed a violation of this chapter and may be prosecuted or made the subject of a Municipal infraction procedure in the same manner as a violation of any other City ordinance. (1991 Code)

3-2-12: OUTDOOR SERVICE:

Any licensee or permittee may serve the type of alcoholic liquor, beer or wine permitted by the license or permit in an outdoor service area immediately adjacent to the indoor licensed premises only in accordance with the following conditions:

A. The outdoor service area shall be enclosed by a permanent fence, wall or other retainer which clearly defines and encloses the outdoor area, which shall be immediately adjacent to and shall have direct access to the indoor portion of the license premises.

1. The retainer must measure a minimum of thirty two inches (32") in height from finished floor surface or grade to the top of the retainer.

2. Snow fence, field fence or flexible plastic fence shall not be deemed permanent retainer material for purposes of this chapter. A permanent retainer shall be constructed of wood, metal, masonry, fiberglass or other similarly rigid and permanent material.

B. The seating capacity, the number and type of exits, and other fire safety requirements of an outdoor service area shall be as prescribed pursuant to the applicable provisions of the International Fire Code as have been adopted and are enforced by the Iowa Fire Marshal.

The City Fire Chief shall determine compliance with the requirements of this subsection.

C. Access to public restrooms located on the licensed premises shall be provided from the outdoor service area. No temporary or portable restroom facilities shall be permitted.

D. If an outdoor service area is operated by a licensee pursuant to this chapter for a period of more than ninety (90) days during any calendar year, the floor surface of the outdoor service area shall be a permanent, finished surface, with landscaping materials or sod and shall not be sand, gravel or bare soil.

E. The outdoor service area retainer shall not be constructed closer to a property line than five feet (5'), except that if the side, rear or front yard setback requirements for the zoning district in which the outdoor service area is located are less than five feet (5') from a property line, the lesser setback shall be permitted.

F. The establishment, construction and operation of an outdoor service area shall comply with all other applicable provisions of this Code. (Ord. 425, 9-8-1992; Ord. 700, 3-15-2010; Ord. 761, 4-7-2014; Ord. 846, 6-17-2019)

3-2-13: APPLICATION FOR OUTDOOR SERVICE AREA:

A. A present or prospective licensee or permittee shall submit to the Office of the City Clerk a written application for an outdoor service area. The application shall include a diagram which illustrates the outdoor service area and which illustrates and describes full compliance with this chapter. The application shall include the dates during which the outdoor service area will be operated.

B. The application shall include an endorsement from the applicant's insurance carrier acknowledging the outdoor service area is covered by the dramshop insurance policy for the premises.

C. An application for an outdoor service area shall be submitted to the City at least thirty (30) days prior to the proposed first date for outdoor service.

D. Upon receipt of an application for outdoor service, the City Clerk shall provide copies of the application to the Fire Chief and the Police Chief for their review. Following the review by the administrative staff, Fire Chief and Police Chief, the application shall be submitted to the City Council for consideration with the recommendations from the staff.

E. An outdoor service area license or permit shall expire on the date of expiration of the alcoholic liquor license or beer or wine permit to which the outdoor service license or permit relates. (Ord. 425, 9-8-1992)

3-2-14: OUTDOOR SERVICE AREA OPERATIONS:

All outdoor service areas shall be operated in accordance with the following requirements:

A. At least one agent or employee of the licensee or permittee shall be designated to serve and supervise the outdoor service area when the area is open and occupied. When more than fifteen (15) customers occupy the outdoor service area, at least one agent or employee shall be physically present in the outdoor service area.

B. No sound amplification device or system and no live music production shall be permitted in an outdoor service area before nine o'clock (9:00) A.M. or after ten o'clock (10:00) P.M. local time Sunday through Thursday and after eleven o'clock (11:00) P.M. local time on Friday and Saturday.

C. Alcoholic beverages may be served in an outdoor service area only in open containers.

D. No outdoor service area shall be operated so as to constitute a public nuisance.

E. Entrance to the outdoor service area shall be provided only from the interior of the licensed premises. (Ord. 425, 9-8-1992; Ord.

3-2-15: TEMPORARY OUTDOOR SERVICE:

A. "Temporary outdoor service" shall mean a site for which a license or permit is requested to serve alcoholic beverages in an outdoor service area for a period not to exceed five (5) days.

B. The temporary outdoor service area shall be exempt from the requirements of subsections 3-2-12A (permanent fence), C (restrooms), D (permanent floor), E (yard setback), 3-2-14B (sound amplification and live music), and E (entrance from licensed premises) of this chapter.

C. A temporary outdoor service area shall be enclosed by a retainer at least forty eight inches (48") in height. The retainer may consist of snow fence, field fence, or flexible plastic fencing, but shall be firmly anchored to prevent movement.

D. A temporary outdoor service area shall be subject to such other reasonable requirements of the Spencer Police and Fire Departments for the particular site and activity proposed. (Ord. 425, 9-8-1992; Ord. 700, 3-15-2010; Ord. 846, 6-17-2019)

3-2-16: GOLF COURSE OUTDOOR SERVICE AREAS:

A. Upon application, a licensee who owns or operates a golf course may apply for the entire golf course to be an "outdoor service area".

B. A golf course alcoholic beverage outdoor service area shall be exempt from the requirements of subsections 3-2-12A, C, D and E of this chapter.

C. The owner or operator of a golf course which has been issued an alcoholic beverage license with outdoor service area may permit patrons to bring alcoholic beverages covered by the license to the premises for their personal consumption. (Ord. 684, 3-16-2009)

CHAPTER 3

COMMERCIAL PASSENGER VEHICLE CODE

SECTION:

3-3-1: Short Title

3-3-2: Taxicabs And Limousines

3-3-3: Licensing; Term

3-3-4: Vehicles; Requirements

3-3-5: Vehicle Identification

3-3-6: License Application; Contents

3-3-7: License Fee

3-3-8: Liability Insurance

3-3-9: Unsatisfied Judgment; Basis For Revocation Of License

3-3-10: Drivers

3-3-11: List Of Drivers

3-3-12: Rates

3-3-13: Issuance Of License

3-3-14: Records

3-3-15: Suspension Or Revocation Of License

3-3-1: SHORT TITLE:

This chapter of the Spencer Municipal Code is hereby entitled *COMMERCIAL PASSENGER VEHICLE CODE*. (Ord. 261, 8-16-1982)

3-3-2: TAXICABS AND LIMOUSINES:

The term "taxicab" or "limousine" shall mean a motor vehicle used for conveying less than seven (7) passengers in exchange for payment of any kind on the public streets of the City, but shall not include a transportation network company, transportation network company driver or personal vehicle as defined in section 321N.1 of the Iowa Code. The term "vehicle" when used in this chapter shall mean a taxicab or limousine. (Ord. 809, 3-20-2017)

3-3-3: LICENSING; TERM:

No vehicles as defined in this chapter shall be used upon the streets of the City unless the owner thereof first obtains a license as required by this chapter, which license shall be issued for the period of one (1) year from the date of issue, unless sooner suspended or revoked as provided in this chapter. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

3-3-4: VEHICLES; REQUIREMENTS:

No vehicle shall be operated as a commercial passenger vehicle unless within the preceding twelve (12) months such vehicle has been inspected by a competent automobile mechanic who is engaged in the service and repair of motor vehicles on a full-time basis and who operates a place of business in Spencer, Iowa. Such inspection shall include each item indicated on the inspection checklist to be provided by the City Clerk. Proof of inspection shall be accomplished by filing a dated copy of the inspection checklist signed by the inspector. If a licensed owner operates the motor vehicle without having previously filed with the City Clerk a certificate of inspection dated within the preceding twelve (12) months, his license shall be subject to suspension or revocation. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982; Ord. 306, 9-17-1984)

3-3-5: VEHICLE IDENTIFICATION:

A. Required: Each vehicle licensed under the provisions of this chapter shall have on each side, in letters readable from a distance of twenty feet (20'), the name of the licensee operating it and shall be identified as a commercial passenger vehicle with the words "taxi", "bus", or other appropriate designation.

B. Limited Exemption: However, taxis or limousines which provide services exclusively by advance arrangement, agreement, or appointment with the user shall be exempt from the provisions of this section regarding external vehicle identification. However, there shall be displayed in the interior of such vehicle, in a manner and location easily readable by the user, the name and address of the licensee operating the vehicle.

An applicant seeking exemption from external vehicle identification requirements under this subsection shall set forth the request for said exemption and the facts supporting the requested exemption in the license application. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982; Ord. 277, 6-20-1983; Ord. 809, 3-20-2017)

3-3-6: LICENSE APPLICATION; CONTENTS:

Application for a license required under this chapter shall be made by the owner upon forms to be furnished by the City Clerk. Each such application shall contain the full name and address of the owner and the make, model and year of manufacture, the Iowa State license number for the current year, engine numbers and factory numbers of all motor vehicles to be licensed under said ownership. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

3-3-7: LICENSE FEE:

A fee in the amount of twenty five dollars (\$25.00) shall be paid to the City at the time of submission of an application under this chapter. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

3-3-8: LIABILITY INSURANCE:

As a condition to issuance of a license hereunder, the applicant shall maintain primary automobile insurance as required by section 325A.6(2) of the Iowa Code. (Ord. 809, 3-20-2017)

3-3-9: UNSATISFIED JUDGMENT; BASIS FOR REVOCATION OF LICENSE:

In the event that the Council, after a public hearing of which the owner involved has had ten (10) days' written notice and an opportunity to appear and be heard, shall make a finding that such owner has permitted any judgment in a court of record to remain unpaid after the time allowed by law for taking an appeal has expired and no appeal is pending, the Council shall have the right and authority to revoke the license of the owner to operate vehicles upon the streets of the City. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

3-3-10: DRIVERS:

Each person driving a vehicle shall comply with section 321.241(1) of the Iowa Code. (Ord. 809, 3-20-2017)

3-3-11: LIST OF DRIVERS:

Each owner shall maintain with the Office of the City Clerk a list of the names and addresses and the license numbers of all drivers of vehicles operated under a license issued under this chapter. Failure to provide such a list or operation of a vehicle by an unlisted driver shall be grounds for suspension or revocation of a license. (Ord. 261, 8-16-1982)

3-3-12: RATES:

Each owner licensed under the provisions of this chapter shall file with the City Clerk his current rate schedule and schedule of service. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

3-3-13: ISSUANCE OF LICENSE:

A. If, upon inspection, an owner appears to have complied with all of the provisions of this chapter, the Clerk shall issue the license as provided herein. The Clerk shall also issue a license card for each vehicle to be operated pursuant to the owner's license, which card shall be carried in each vehicle during its operation.

B. Licenses issued pursuant to this chapter shall not be transferred to new owners, but any license may be transferred to another vehicle of the same ownership by proper application therefor. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

3-3-14: RECORDS:

The Clerk shall keep a register of the name of each vehicle owner to which a license is issued under the provisions of this chapter, together with a list of each vehicle operated by each owner and each driver employed by each owner. Such record shall be opened to inspection of the public during reasonable business hours. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

3-3-15: SUSPENSION OR REVOCATION OF LICENSE:

Licenses granted pursuant to this chapter may be suspended or revoked at any time by the Council after a public hearing of which the owner has had ten (10) days' written notice and an opportunity to appear and be heard, for any violation of the provisions of this chapter, violation of any State law or regulation, unsafe operation or operation or conduct contrary to the public interest. (Ord. 173, 2-3-1975; Ord. 261, 8-16-1982)

BINGO REGULATION AND ENFORCEMENT CODE

SECTION:

3-4-1: Short Title

3-4-2: Definitions

3-4-3: Permit Required

3-4-4: Application

3-4-5: Permit Issuance

3-4-6: Reports

3-4-7: Term Of Permit

3-4-8: Suspension Or Revocation Of Permit

3-4-9: Compliance Required, Time Limit

3-4-1: SHORT TITLE:

This chapter is hereby entitled *BINGO REGULATION AND ENFORCEMENT CODE*. (Ord. 278, 7-5-1983)

3-4-2: DEFINITIONS:

For purposes of this chapter, the definitions as set out in the Code of Iowa, as hereafter amended, are hereby incorporated in this chapter by reference as though fully set out herein. (Ord. 278, 7-5-1983; 1991 Code)

3-4-3: PERMIT REQUIRED:

No qualified organization shall operate a game of bingo within the corporate limits of the City unless such qualified organization shall first obtain a permit as required by this chapter and unless such game is operated in accordance with the provisions of this chapter. (Ord. 278, 7-5-1983)

3-4-4: APPLICATION:

As its application for a permit under this chapter, a qualified organization shall submit to the City Clerk the following:

- A. Legible true and accurate copies of all documents submitted to the Iowa Department of Inspections and Appeals as its application for a license under chapter 99B.2 of the Code of Iowa.
- B. A legible true and accurate copy of the license issued to the qualified organization by the Iowa Department of Inspections and Appeals under chapter 99B.2 of the Code of Iowa.
- C. The name, mailing address and phone number of the individual completing the application.
- D. The address and description and description of the principal place of business of the applicant in the City.
- E. A list of all officers, directors, partners, controlling shareholders or other persons holding an ownership interest in the applicant, including the name, current address and title or ownership interest of each person.
- F. If the premises upon which bingo games are to be conducted by the applicant are rented or leased, the application shall state the name and address of the owner of the premises, the legal description and local address of the premises and shall also include a true and accurate copy of the lease or rental agreement. If the lease or rental agreement is oral, the application shall set forth the terms and conditions of such oral lease or rental agreement.
- G. The day of the week and the time of day each bingo occasion will commence and the time of duration of each bingo occasion.
- H. The frequency of bingo occasions intended to be conducted by the applicant, by number of times per month and number of times per week.
- I. A permit fee for the permit required under this Chapter in the amount of fifteen dollars (\$15.00). (Ord. 278, 7-5-83; 1991 Code)

3-4-5: PERMIT ISSUANCE:

Upon receipt of the documents required under Section 3-4-4 above, the City Clerk shall review such documents and if the Clerk finds that all requested documents have been provided and that the qualified organization is duly licensed by the Iowa Department of Inspections and Appeals under chapter 99B.2 of the Code of Iowa and that the proper permit fee has been paid, the Clerk shall issue a permit as provided in this Chapter. (Ord. 278, 7-5-83; 1991 Code)

3-4-6: REPORTS:

For any period during which a qualified organization operates a bingo game within the corporate limits of the City pursuant to a permit issued under the provisions of this Chapter and under a license issued by the Iowa Department of Inspections and Appeals under chapter 99B.2 of the Code of Iowa such qualified organization shall submit to the City Clerk legible, true and accurate copies of all reports or other documents which said qualified organization is required to submit to the Iowa Department of Inspections and Appeals as required by chapter 99B.2 of the Code of Iowa or applicable rules and regulations of the Iowa Department of Inspections and Appeals adopted thereunder. Such reports and documents shall be submitted to the office of the City Clerk within five (5) days of the date upon which reports and documents are required to be submitted to the Iowa Department of Inspections and Appeals. (Ord. 278, 7-5-83; 1991 Code)

3-4-7: TERM OF PERMIT:

A permit issued pursuant to the provisions of this Chapter shall remain in effect unless suspended or revoked as hereinafter provided until the last day of the twelfth full month following the date of issue.

Any permit issued hereunder may be renewed upon expiration, if the same has not been suspended or revoked as hereinafter provided by paying to the City Clerk the annual filing fee of fifteen dollars (\$15.00) and filing with the City Clerk a renewal application on forms provided by the City Clerk.

If a qualified organization ceases to operate bingo games within the corporate limits of the City, such organization shall surrender the permit issued hereunder to the City Clerk, and upon such surrender, organizations shall no longer be required to report to the City Clerk as provided herein.

No portion of any permit fee paid to the City pursuant to the provisions of this Chapter shall be refunded. (Ord. 278, 7-5-83)

3-4-8: SUSPENSION OR REVOCATION OF PERMIT:

Permits granted pursuant to this Chapter may be suspended or revoked at any time by the Council after a public hearing of which the owner is given ten (10) days' written advance notice and an opportunity to appear and be heard, for any violations of the provisions of this Chapter or a violation of State law or regulation. (Ord. 278, 7-5-83)

3-4-9: COMPLIANCE REQUIRED, TIME LIMIT:

All qualified organizations required to obtain a permit from the City Clerk pursuant to the provisions of this Chapter shall comply with the provisions of this Chapter within fourteen (14) days of its effective date. (Ord. 278, 7-5-83)

CHAPTER 5

PAWNBROKERS

SECTION:**3-5-1: License Required****3-5-2: Definitions****3-5-3: Exemptions****3-5-4: License Application****3-5-5: Fee****3-5-6: Records****3-5-7: Retention of Property****3-5-8: Consent of Minor's Parents Required****3-5-9: Disposing of Property subject to Claims****3-5-10: Legible serial Number****3-5-11: Bonds****3-5-12: Revocation****3-5-13: Renewal****3-5-1: LICENSE REQUIRED:**

No person shall conduct or operate the business of a pawnbroker as that term is herein defined, within the City, without having first obtained a license therefor as herein provided or in violation of any of the provisions herein contained. (Ord. 287, 11-21-83)

3-5-2: DEFINITIONS:

MINOR: Any unemancipated person under the age of eighteen (18) years.

PAWNBROKER: Any person who loans money on deposit of personal property or who deals in the purchase of personal property on conditions of selling the same back at a stipulated price or who receives actual possession of personal property as security for loans, with or without a mortgage, or bill of sale thereupon, or who by advertisement or sign or otherwise holds themselves out as a pawnbroker.

PERSON: Any individual, partnership, association, corporation or other entity. (Ord. 287, 11-21-83; 1991 Code)

3-5-3: EXEMPTIONS:

The provisions and regulations of this Chapter shall not apply to:

- A. Charitable organizations.
- B. Auctioneers and auctions houses.
- C. Events such as, but not limited to, flea markets and garage sales.
- D. Events such as fairs, conventions or hobby shows.

E. Personal property purchased by one dealer from another dealer in the regular course of business.

F. Personal property received as a trade in on the purchase of other personal property.

G. Banks, savings and loans, credit unions and industrial loan companies or other commercial lending institutions licensed or chartered under the laws of the State or the United States. (Ord. 287, 11-21-83)

3-5-4: LICENSE APPLICATION:

An application for a pawnbroker license shall be made to the City Clerk and shall state thereon the name of the applicant, the place of business and the number, name and address of each employee of the business. The Chief of Police shall investigate such applicant for such license and shall report to the City Council whether or not such applicant is a person of good character; no license shall be issued hereunder to a person who has been convicted of the offense of receiving stolen goods, burglary, robbery or a similar offense.

Within thirty (30) days of the filing of an application for license with the City Clerk, pursuant to this Chapter, the City Council will consider the application and the report of the Chief of Police and shall either direct the issuance of the license by the Clerk or deny the issuance. (Ord. 287, 11-21-83)

3-5-5: FEE:

The annual fee for a pawnbroker's license shall be ten dollars (\$10.00), and this fee shall be payable in advance and no license shall be issued until the fee is paid. (Ord. 287, 11-21-83)

3-5-6: RECORDS:

Every person licensed under this Chapter shall keep a record in which he shall accurately enter, in ink, at the time of purchasing or receiving any property, the following:

- A. The name of the person from whom the property was purchased or received and his address.
- B. A particular and detailed accurate description of each article of property.
- C. The estimated value of each article.
- D. The amount paid, advanced or loaned.
- E. The date and hour of the transaction.
- F. The time when the article is to be redeemed or returned.
- G. A copy of any mortgage or bill of sale taken or receipt or pawn ticket given.
- H. When and by whom an article was returned or redeemed.
- I. When, to whom and how an article was disposed of or sold, if not redeemed.

All records described in this Section shall be open to inspection during regular business hours by any police officer acting in the course of official duty.

Failure to keep records required hereunder or making false entries therein or refusal to produce the same when requested by a police officer shall subject the offender to penalties as provided by law. (Ord. 287, 11-21-83)

3-5-7: RETENTION OF PROPERTY:

No person licensed under this Chapter shall melt, destroy, dispose of, or alter any property received by him, subject to this Chapter, within fifteen (15) days after his receipt thereof. (Ord. 287, 11-21-83)

3-5-8: CONSENT OF MINOR'S PARENTS REQUIRED:

No person licensed under this Chapter shall purchase or receive any personal property from any minor without first receiving the written consent of the minor's parents or guardian. (Ord. 287, 11-21-83)

3-5-9: DISPOSING OF PROPERTY SUBJECT TO CLAIMS:

No person licensed under the provisions of this Chapter shall sell or transfer, modify or destroy, permit to be redeemed, or otherwise dispose of any article of personal property which he has reason to believe has been stolen, or which is adversely claimed by any other person or which he has been requested to retain or preserve by the Chief of Police. (Ord. 287, 11-21-83)

3-5-10: LEGIBLE SERIAL NUMBER:

No person licensed under the provisions of this Chapter shall sell, transfer, convey or otherwise dispose of any item of personal property which bears evidence of a serial number which has been tampered with or scratched or obliterated in any manner until forty eight (48) hours after notifying the Chief of Police that such property is in the licensee's possession. (Ord. 287, 11-21-83)

3-5-11: BONDS:

Before receiving a license under the provisions of this Chapter, each person shall file with the City Clerk a bond executed by a surety bonding company licensed to do business in the State in the sum of two thousand dollars (\$2,000.00), conditioned that the licensee will comply with all the conditions and regulations of this Chapter and that he will pay all fines, costs or penalties imposed for his failure to do so and will pay all damages resulting to any person by reason of his wrongful purchasing, taking or receiving in pledge or on deposit, stolen property. (Ord. 287, 11-21-83)

3-5-12: REVOCATION:

Licenses granted pursuant to this Chapter may be suspended or revoked at any time by the Council after a public hearing of which the licensee is given ten (10) days' written advance notice and an opportunity to appear and be heard, for any violations of the provisions of this Chapter, or a violation of State law or regulation. (Ord. 287, 11-21-83)

3-5-13: RENEWAL:

All licenses issued under this Chapter shall expire on the last day of the twelfth month following the month of issue but may be renewed by filing request for renewal and payment of the annual license fee with the City Clerk. The City Clerk shall be authorized to renew any license originally issued under this Chapter which has not been suspended or revoked. (Ord. 287, 11-21-83)

CHAPTER 6

VEHICLE SALVAGE BUSINESSES

SECTION:

3-6-1: Definitions

3-6-2: Fence Requirements

3-6-3: Operation Within Fenced Area

3-6-1: DEFINITIONS:

The terms "demolisher", "used vehicle parts dealer", "vehicle salvager" and "vehicle rebuilder" shall, for the purposes of this Chapter, be defined as set out in section 321.1 of the Iowa Code. (Ord. 299, eff. 9-1-84)

3-6-2: FENCE REQUIREMENTS:

From and after the effective date of this Chapter, no business or commercial activity defined as a "demolisher", "used vehicle parts dealer", "vehicle salvager" or "vehicle rebuilder" shall be operated or conducted within the corporate limits of the City except within the confines of a fence as hereinafter provided:

A. A fence required hereunder shall be a "chain-link" fence at least six feet (6') in height, of uniform and substantial construction, constructed and located as provided by the Spencer Municipal Code and approved by the Building and Zoning Officer.

B. Such fence shall completely confine and enclose the business operations described herein. Any openings in the fence shall be provided with gates of consistent construction and height which shall be securely closed and locked at all times when the business is not open and operating.

C. Said fence at all times shall be constructed and maintained so as to remain essentially vertical and without opening except where gates are installed. (Ord. 299, eff. 9-1-84)

3-6-3: OPERATION WITHIN FENCED AREA:

All business operations described herein shall be conducted only within the confines of the fence, and no materials shall be maintained, stored or kept outside the fence. (Ord. 299, eff. 9-1-84)

CHAPTER 7

HOTEL AND MOTEL TAX

SECTION:

3-7-1: Short Title

3-7-2: Definitions

3-7-3: Tax Imposed

3-7-4: Effective Date

3-7-5: Reporting; Payment; Collection And Administration

3-7-6: Exemptions, Penalties And Interest

3-7-7: Accounting And Expenditures

3-7-8: Allocation Of Revenues

3-7-1: SHORT TITLE:

This chapter may be known and may be cited as the *CITY OF SPENCER, IOWA, HOTEL AND MOTEL TAX ORDINANCE*. (Ord. 558, 9-17-2001)

3-7-2: DEFINITIONS:

For purposes of this chapter, the following terms, phrases and words shall have the meanings given herein:

LODGING FACILITIES: Any facility which receives receipts from the renting of sleeping rooms, apartments, or sleeping quarters in a hotel, motel, public lodging house, rooming house, mobile home which is tangible personal property, or tourist court, or any place where sleeping accommodations are furnished to transient guests for rent, except:

A. Gross receipts from renting of sleeping rooms in dormitories of colleges located in the City of Spencer;

B. Gross receipts from the renting of sleeping rooms to guests of a religious institution if the property is exempt from Real Estate Taxes and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally;

C. Gross receipts from the renting of a sleeping room, apartment or sleeping quarters while rented to the same person(s) for a period of more than thirty one (31) consecutive days.

TAX: The local option Hotel and Motel Tax established and imposed by this chapter pursuant to chapter 422A of the Iowa Code. (Ord. 558, 9-17-2001)

3-7-3: TAX IMPOSED:

There is hereby imposed a tax as in this chapter provided on all lodging facilities within the corporation limits of the City of Spencer in an amount equal to seven percent (7%) of the gross receipts from the rental of such lodging facilities. (Ord. 558, 9-17-2001; Ord. 836, 11-26-2018)

3-7-4: EFFECTIVE DATE:

The tax imposed hereunder shall become effective at two o'clock (2:00) P.M. on January 2, 2011, and shall continue until repealed as provided by law. (Ord. 836, 11-26-2018)

3-7-5: REPORTING; PAYMENT; COLLECTION AND ADMINISTRATION:

The tax imposed hereunder shall be reported and paid to the Iowa Department of Revenue, and the reporting, collection, administration and payment to the City of the tax imposed hereunder shall be accomplished by the Iowa Department of Revenue pursuant to, and in accordance with, the provisions of chapter 422A of the Iowa Code and the applicable Administrative Rules adopted by the Iowa Department of Revenue. (Ord. 558, 9-17-2001)

3-7-6: EXEMPTIONS, PENALTIES AND INTEREST:

Exemptions from the imposition of the tax imposed hereunder shall be only such exemptions as are adopted and implemented by the Iowa Department of Revenue. In addition to penalties and interest charges which may be imposed by the Iowa Department of Revenue pursuant to law, any person, individual or entity who fails to collect, report and pay to the Department of Revenue the tax imposed under this chapter shall also be subject to penalties as provided under title 1, chapter 4 and chapter 4, article A of this Code. (Ord. 558, 9-17-2001)

3-7-7: ACCOUNTING AND EXPENDITURES:

A. The City Clerk shall maintain a separate account for the receipts and expenditure of amounts received by the City from the tax imposed hereunder.

B. At least fifty percent (50%) of the revenues derived from the tax imposed under this chapter shall be used by the City for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities, including, but not limited to, memorial buildings, halls and monuments, civic center, convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural or entertainment facilities, or for the promotion and encouragement of tourist and convention business in the City of Spencer.

C. The receipts from the tax imposed under this chapter not utilized in as provided in the preceding subsection shall be credited to and become part of the General Fund of the City and shall be expended thereunder. (Ord. 558, 9-17-2001)

3-7-8: ALLOCATION OF REVENUES:

28.6 percent of the revenues derived from the tax imposed under this chapter shall be allocated for the support and promotion of tourism and for activities and programs to attract visitors to the community, and to provide services and benefits to visitors and tourists.

The City Clerk is authorized and directed to establish and maintain a tourism Hotel/Motel Tax account; to deposit in this account 28.6 percent of all revenues derived from the tax and to pay from this account such amounts as are from time to time specifically approved by the Spencer City Council. (Ord. 713, 11-15-2010)

TITLE 4

HEALTH AND SANITATION

CHAPTER 1

NUISANCES

SECTION:

4-1-1: Definitions

4-1-2: Other Conditions Prohibited

4-1-3: Nuisances Prohibited

4-1-4: Notice To Abate Nuisance Or Condition

4-1-5: Contents Of Notice To Abate

4-1-6: Method Of Service

4-1-7: Request For Hearing And Appeal

4-1-8: Abatement In Emergency

4-1-9: Abatement By Municipality

4-1-10: Collection Of Cost Of Abatement

4-1-11: Installment Payment Of Cost Of Abatement

4-1-12: Prosecution

4-1-13: Penalty

4-1-1: DEFINITIONS:

For use in this chapter, the following terms are defined:

NUISANCE: Whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

A. Buildings: The erecting, continuing or using any building or other place for any trade, employment or manufacture, which, because of offensive odors or pollutants, becomes injurious or dangerous to the health, comfort or property of individuals or the public.

B. Various Materials And Deposits: Putrid, filthy and offensive substances, materials, deposits or things left deposited or existing in or upon any street, alley, sidewalk, park, public place, vacant or occupied lot or building, or upon any pond or pool of water which are or may be injurious, offensive, dangerous, deleterious to the health of the City or its inhabitants.

C. Waters: The obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water.

D. Pollution: The pollution of the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the damage of others.

E. Obstructions: The obstructing or encumbering by fences, buildings or otherwise public roads, private ways, streets, alleys, commons or landing places.

F. Cotton Bearing Trees: Cotton bearing cottonwood trees and all other cotton bearing poplar trees.

G. Inflammables: The depositing or storing of inflammable junk, such as rags, rope, cordage, rubber, bones and paper, unless it be in a structure of fireproof construction.

H. Emissions: The emission of dense smoke, noxious fumes or fly ash.

I. Yard Waste: Piles or accumulations of yard waste exceeding, in total, sixteen (16) cubic feet. Such piles or accumulations shall not be placed in a front yard. Firewood, landscaping features, and material which constitutes inventory used in the manufacture of a product on the premises are exempt.

J. Standing Water: Allowing or permitting land to remain in such a condition as to allow stagnant, standing water.

K. Houses: A house, other than building, or land visible from any public place or private premises remaining in an unclean or disorderly condition and to a standard not conforming with other orderly premises in that vicinity.

L. Property Maintenance: Premises maintained in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.

M. Construction Site Maintenance: The maintenance of a construction site in such a manner that litter will not be prevented from being carried by the elements to adjoining premises.

N. Objects: Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans, or containers.

O. Compost: Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease carrying pests, animals or insects.

P. Farm Animals: Except in areas zoned F Agricultural, the keeping within the City limits of farm animals and fowl, including, but not limited to, ducks, geese, chickens, turkeys, cattle, goats, swine, sheep, buffalo, horses and ponies.

Q. Materials: Storing or permitting the storage of material, such as, but not limited to, sand, gravel, rock, earth, coal and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of freestanding material makes with the horizontal plane without slipping, sliding or collapse of the material.

This subsection shall not apply to accumulations or piles of snow, nor to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.

R. Privy: Any privy, unless it has connection with the public sewer. Privies that emit or cause an offensive or noxious or disagreeable smell or odor. Modern chemical toilets are permitted at construction sites and for event specific temporary use, or emergency use.

S. Animal And Vegetable Matter: Carcasses of animals remaining exposed and unburied six (6) hours after death, except game animals being processed in accordance with Iowa Department of Natural Resources regulations. Green or slated hides left or

deposited in any open or public places.

T. Obstructing Streets, Sidewalks, Parkings And Drains: The unlawful obstructing or impeding of any street, alley, sidewalk, parking, gutter, drainage ditch, sewer or catch basin.

U. Deposits On Parking: The deposit or storage of any garbage or refuse containers, brush, rubbish, grass, rocks, building materials, incinerators, or any other debris or materials on the parking or area between the sidewalk and the curb on any street, except for a period not to exceed twenty four (24) hours while awaiting removal by garbage or refuse haulers.

V. Air Quality: Any business, trade, manufacture or other operation or condition of property, which gives rise to noxious or offensive odors, gases, vapors, smoke, pollen, or fumes which injure or threaten the health or safety of individuals or the public which result in three (3) independent complaints within any six (6) hour period.

W. Storage, Collection, Discharge Or Depositing: The storage, collection, discharge or depositing of any liquid waste, offal, filth, garbage, refuse, dead animals or contaminated material in any private or public place so as to threaten the health, safety or is offensive to the senses of any individual or the public, or to be conducive to the breeding and harborage of flies, rats or other vermin. Game animals being processed according to Iowa Department of Natural Resources regulations are exempted.

X. Rats: An infestation of rats or other vermin in or upon any premises.

Y. Bodies Of Water: The discharge or depositing of any liquid waste, offal, filth, refuse, garbage, dead animals, contaminated material or other polluting material into any stream, river, lake or other body of water so as to injure or threaten the health and safety of individuals or the public.

Z. Communicable Disease: The exposure of any person to any communicable disease by unlawful act or practice.

AA. Drugs, Medication, Devices, Materials And Chemicals: The unlawful manufacture, formulation, sale, distribution and/or use of drugs, medication, devices, materials and/or chemicals.

BB. Dead Animals: The disposal of dead animals by means other than by rendering, by burying at least three feet (3') under the surface of the ground, or by transportation to and disposal at the Northern Plains Regional Landfill.

CC. Secure Areas: Failure to secure areas, buildings, or places against unauthorized access where such access threatens the health or safety of individuals, or is an attractive nuisance to children.

DD. Debris, Refuse, Rubbish, Trash: Accumulations of unused boards, bricks, concrete or rocks, animal or vegetable products or matter, appliances, ashes, barrels (excluding solid waste collection barrels awaiting pickup), bones, bottles, boxes, broken glass, brush, cans, cartons, cinders, coal, crates, pallets, decayed fruits or vegetables, dirt, dust, excrement, fence wire, filth, firewood not piled or stacked neatly or systematically, flammable materials, garbage, gasoline, grass, household furniture, discarded or broken or abandoned toys, iron and other metals, junk, kegs, leaves, logs, lumber not piled or stacked neatly and systematically (must have nails removed and be in rear yard, untreated lumber must be stacked), lumber scraps, manure, nails, offal, oil, old wearing apparel, paper, plaster, plastic (discarded containers or wrappers), plumbing fixtures, putrid fish or meat entrails, rags, roof shingles, rubber, sawdust, slag slop, soot, straw, sweepings, tacks, tarpaulin not in good repair, tire(s) (mounted or unmounted), toilets, tubs, vehicle parts, weeds, wire, wood or metal shavings, any type of solid or yard waste (bagged or unbagged), or any condition or item that would prohibit the routine maintenance of the property or adversely affect the use and habitability of nearby property and of property within the City as a whole. Foliage and shrub clippings or cuttings, leaves, brush and fallen tree limbs or debris, firewood and other yard waste may be stored in piles in a rear yard not less than two feet (2') from a lot line and should be stored temporarily pending disposal or when used for mulch or composting or firewood.

EE. Furniture, Fixtures And Appliances Outdoors: Any furniture, fixture and appliance, including sofas, divans, recliners, toilets, bathtubs, sinks and similar objects which are not designed for outdoor use but which are maintained or located on any porch, lawn, parking lot, driveway or public right-of-way.

FF. Miscellaneous: Any act done or committed or suffered to be done or committed by any person or any substance or thing kept, maintained, placed or found in or on any public or private place which is annoying or damaging or injurious or dangerous to the public health or welfare or safety and every act or thing done, permitted, maintained, allowed or continued on any property, public or private, by any person, which is liable to or does endanger, annoy, damage or injure any person or inhabitant of the City or property of said person or inhabitant.

GG. Storage: Storage other than in an enclosed building on private property which is residentially zoned of any two (2) or more vehicle parts, including (but not limited to) bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields or windows, wheels, or any other structural, mechanical, or decorative vehicle parts.

HH. Unenclosed Storage: The storage of anything on an unenclosed (a tarp shall not be considered enclosed) trailer, pickup or truck box or like vehicles shall be treated in the same manner as storage outside of an enclosed structure.

II. Other Nuisances: Any matter, thing, substance, or condition within the City deemed to be a nuisance in chapter 657 of the Code of Iowa, or defined as a public nuisance in chapter 657A of the Code of Iowa, or the successor provisions of either of the chapters, or existing by reason of any violation of other provisions of this chapter.

PROPERTY OWNER: The contract purchaser if there is one of record; otherwise, the record holder of legal title. (Ord. 13; Ord. 67, 12-7-1953; Ord. 324, 9-16-1985; 1991 Code; Ord. 452, 3-7-1994; Ord. 686, 4-20-2009; Ord. 824, 11-6-2017)

Notes

¹ 1. For other tree planting regulations see title 5, chapter 5 of this Code.

4-1-2: OTHER CONDITIONS PROHIBITED:

The following conditions may also be abated in the manner provided in this chapter, and the following actions may be required:

- A. The removal of diseased trees or dead wood¹.
- B. The removal, repair or dismantling of a dangerous building or structure².
- C. The connection to public drainage systems from abutting property when necessary for public health or safety.
- D. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property³.
- E. The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard. (Ord. 324, 9-16-1985; 1991 Code)

Notes

¹ 1. For tree planting regulations see title 5, chapter 5 of this Code.

² 2. See also title 8, chapter 6 of this Code.

³ 1. See section 4-4-3 of this title and section 8-4-13 of this Code.

4-1-3: NUISANCES PROHIBITED:

The creation or maintenance of a nuisance is hereby prohibited, and a nuisance, public or private, may be abated or penalized in the manner provided in this chapter. (Ord. 67, 12-7-1953; Ord. 324, 9-16-1985)

4-1-4: NOTICE TO ABATE NUISANCE OR CONDITION:

Whenever the Mayor or other authorized Municipal officer finds that a nuisance or other condition listed in section 4-1-1 of this chapter exists, he shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice. (Ord. 324, 9-16-1985)

4-1-5: CONTENTS OF NOTICE TO ABATE:

The notice to abate shall contain:

- A. A description of what constitutes the nuisance or other condition.
- B. The location of the nuisance or condition.
- C. A statement of the act or acts necessary to abate the nuisance or condition.
- D. A reasonable time within which to complete the abatement.
- E. A statement that if the nuisance or condition is not abated as directed and no request for hearing has been made within the time prescribed, the City may prosecute the owner or abate the nuisance and assess the costs against the owner. (Ord. 324, 9-16-1985)

4-1-6: METHOD OF SERVICE:

The notice may be in the form of an ordinance or sent by certified mail to the property owner as shown by the records of the County Auditor, or may be served by the Spencer Police Department or Clay County Sheriff. (Ord. 324, 9-16-1985)

4-1-7: REQUEST FOR HEARING AND APPEAL:

Any person ordered to abate a nuisance or condition may have a hearing before the City Council as to whether a nuisance or prohibited condition exists. A request for hearing must be made in writing and delivered to the City Clerk within the time for abatement stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists, and it must be abated as ordered.

At the conclusion of the hearing, the Council shall render a written decision as to whether a nuisance or prohibited condition exists. If it finds that a nuisance or prohibited condition exists, it shall order it abated and prescribe additional time which must be reasonable under the circumstances. (Ord. 324, 9-16-1985)

4-1-8: ABATEMENT IN EMERGENCY:

If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required without prior notice. The City shall assess the costs as provided in section 4-1-9 of this chapter, after notice to the property owner. (Ord. 324, 9-16-1985)

4-1-9: ABATEMENT BY MUNICIPALITY:

If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the Municipality. (Ord. 324, 9-16-1985)

4-1-10: COLLECTION OF COST OF ABATEMENT:

The City Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to

abate, and if the amount shown by the statement has not been paid within one month, the City Clerk shall certify the costs to the County Auditor, which shall then be collected with and in the same manner as General Property Taxes. (Ord. 324, 9-16-1985)

4-1-11: INSTALLMENT PAYMENT OF COST OF ABATEMENT:

If the amount expended to abate the nuisance or condition is five hundred dollars (\$500.00) or less, the City may levy an assessment against the property to be paid in one installment. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), but does not exceed one thousand dollars (\$1,000.00), the City may permit the assessment to be paid in up to five (5) annual installments; if the cost exceeds one thousand dollars (\$1,000.00) but does not exceed two thousand dollars (\$2,000.00), the City may permit the assessment to be paid in up to seven (7) annual installments; and if the cost exceeds two thousand dollars (\$2,000.00) the City may permit the assessment to be paid in up to ten (10) annual installments in the same manner and with the same interest as special assessments on benefited property. (Ord. 773, 11-3-2014)

4-1-12: PROSECUTION:

In lieu of the foregoing abatement procedures, the City may elect to treat an unabated nuisance as a violation of this chapter, punishable as provided in section 4-1-13 of this chapter. (Ord. 324, 9-16-1985)

4-1-13: PENALTY:

Any person violating any provision of this chapter shall be fined as provided in section 1-4-1 of this Code. (Ord. 324, 9-16-1985; 1991 Code)

ARTICLE A. UNUSED MOTOR VEHICLE STORAGE

SECTION:

4-1A-1: Purpose

4-1A-2: Definitions

4-1A-3: Unused Motor Vehicle Declared A Nuisance

4-1A-4: Exceptions

4-1A-5: Penalty

Notes

1. Prior ordinance history: Ord. 294, 5-7-1984; 1991 Code; Ord. 503, 9-8-1998.

4-1A-1: PURPOSE:

The purpose of this article is to protect the health, safety and welfare of the citizens of the community, particularly children; to prevent the reduction of property values; to encourage the maintenance of property free of nuisances; and to eliminate fire and safety hazards by prohibiting the open storage of unused motor vehicles. (Ord. 633, 9-6-2005)

4-1A-2: DEFINITIONS:

UNUSED MOTOR VEHICLE: In this code, the term "unused motor vehicle" shall mean a "vehicle" to which any one or more of the following criteria applies:

- A. Licensed: Any vehicle for which a license may be obtained under the laws of the state of Iowa that is not licensed for the current year.
- B. Operable: Any vehicle not in a safe and current operating condition such that, upon the request of a city police or nuisance enforcement officer, the vehicle cannot be started and moved under its own power a distance of fifty feet (50').
- C. Uninsured: Any vehicle for which the owner does not possess and produce a financial liability coverage card as required under section 321A.19 (or any subsequently adopted replacement provision) of the code of Iowa.
- D. Missing Glass: Any vehicle in which a portion of the windshield, windows, headlight or taillight is missing.
- E. Wheels And Tires: Any vehicle that lacks functional and usable wheels and tires.
- F. Broken Or Loose Parts: Any vehicle with broken or loose parts that constitute a danger because of exposed, sharp or jagged edges, or that make any interior portion of the vehicle, including the trunk or engine compartment, accessible to children or animals.
- G. Habitat For Nuisance Animals Or Insects: Any vehicle that has become a habitat for rats, mice or any other vermin, or insects.
- H. Defective Or Obsolete Condition: Any other vehicle that, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

VEHICLE: Every device in, upon or by which a person or property is or may be transported or drawn, except devices moved by human power. The term includes, without limitation, a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof. The term "vehicle" does not include snowmobiles, all-terrain vehicles, campers or boats. (Ord. 633, 9-6-2005)

4-1A-3: UNUSED MOTOR VEHICLE DECLARED A NUISANCE:

Storage within the corporate limits of the city of Spencer of an unused motor vehicle upon private property, except as provided by section 4-1A-4 of this article, constitutes a threat to the health and safety of the citizens of Spencer, and is a nuisance within the meaning of section 657.1 of the code of Iowa. If any unused motor vehicle is stored upon private property in violation of this article, the owner or person in control of the property on which the vehicle is stored shall be prima facie liable for the violation. (Ord. 633, 9-6-2005)

4-1A-4: EXCEPTIONS:

The provisions of this article shall not apply to a used motor vehicle:

- A. Stored within a garage or other permanently enclosed structure.
- B. Stored on an operable and currently licensed trailer during the months of May through September.
- C. Stored at an auto salvage yard, junkyard, auto recycling facility or scrap iron and metal dealer legally operated within the city of Spencer.
- D. Held for storage or sale upon properly zoned property by a motor vehicle dealer, body shop or repair shop, vehicle towing company or governmental agency. (Ord. 633, 9-6-2005)

4-1A-5: PENALTY:

Any person who owns or controls property upon which there exists an unused motor vehicle in violation of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 633, 9-6-2005)

CHAPTER 2

CONTROL OF VEGETATION

SECTION:

4-2-1: Destruction Of Weeds; Growths Required

4-2-2: Property Owner's Obligation To Control Vegetation

4-2-3: Notice; Abatement; Assessment Of Cost

4-2-4: Allocation Of Funds

4-2-5: Exceptions To Vegetation Control Requirements

4-2-6: Application For Exemption

4-2-7: Definitions

4-2-1: DESTRUCTION OF WEEDS; GROWTHS REQUIRED:

It shall be unlawful for any owner, agent or occupant in possession or control of any lands, including railroad lands, to fail, neglect or refuse to cut or destroy any or all noxious weeds thereon as defined by law, and/or vines, brush or other growth, which constitute a health, safety or fire hazard. All such cutting and destroying of such weeds and/or vines, brush or other growth shall be done at such time as shall prevent such weeds from blooming or coming to maturity, and in the event that chemical solutions are used for such control, said chemicals shall be used in such a manner as to not damage the growth on adjoining property. (Ord. 91, 8-17-1959; 1991 Code)

4-2-2: PROPERTY OWNER'S OBLIGATION TO CONTROL VEGETATION:

Except as provided in section 4-2-5 of this chapter, all property owners shall maintain their property and the abutting property outside the property owner's lot and property line and inside the curb lines of an adjacent public street or, in absence of a curb, from the traveled portion of the adjacent public street to the lot or property line as follows:

- A. In all areas of the city, all weeds, vines and brush shall be cut or destroyed when said growth exceeds eight inches (8") in height.
- B. All turf grass shall be maintained by mowing so it does not exceed eight inches (8") in height.
- C. All existing turf grass on public street right of way shall be so maintained. (Ord. 91, 8-17-1959; Ord. 658, 8-6-2007, eff. 12-31-2007)

4-2-3: NOTICE; ABATEMENT; ASSESSMENT OF COST:

In the event the owner of any property shall neglect or fail to comply with the provisions of section 4-2-2 of this chapter, it shall be the duty of the building and zoning officer to give such owner(s) notice by posting on the property. A notice that the property is in violation of section 4-2-2 of this chapter and if the violating condition is not abated within seven (7) days of the first date of posting of the notice, the city will abate the condition and attempt to collect the cost of abatement from the property owner.

If the condition is not abated within seven (7) days of the first date notice was posted the city shall act to control the vegetation and periodically report the cost of the abatement for each parcel of land or adjacent right of way through the city council. The council may levy and assess the reasonable cost for abatement against the parcel and certify the same to the county auditor be collected in the same manner as a property tax, in accordance with state law. (Ord. 91, 8-17-1959; 1991 Code; Ord. 658, 8-6-2007, eff. 12-31-2007; Ord. 667, 7-7-2008)

4-2-4: ALLOCATION OF FUNDS:

All costs and expenses to the city under the provisions of this chapter shall be paid from the general fund of the city. All payments received under the provisions of this chapter shall be placed in the general fund of the city. (Ord. 91, 8-17-1959)

4-2-5: EXCEPTIONS TO VEGETATION CONTROL REQUIREMENTS:

Real estate or portions of real estate which fall within one or more of the following classifications are exempt from the provision of section 4-2-2 of this chapter:

- A. A natural wooded area, wetland, or floodplain area.
- B. Native prairie or meadow areas.
- C. Land that is currently used for agricultural purposes, except as follows:
 - 1. Agricultural crops shall be harvested at least annually and hay ground shall be mowed at least twice each summer in June and August.
 - a. Property owners who intend to raise hay on their ground and thus qualify for this exemption shall notify the city by April 1 of each year of their intentions.
 - b. That property of the Clay County Fair Association used for parking and campground located north of 18th Avenue West shall be required to be mowed only once each year, prior to the Clay County Fair.
 - 2. Public street right of way adjacent to land currently used for agricultural purposes shall be maintained as required in section 4-2-2 of this chapter.
- D. Those land areas which because of slope, obstacles or standing water are impractical or unsafe to cut or mow.
- E. Any land which has been granted an exemption by the parks and recreation director or his designee.
- F. Landscape or areas of natural vegetation which are planned, defined, controlled and maintained by the property owner.
- G. Land under the control of the Iowa department of natural resources or the Clay County conservation commission and land under the control of the Spencer park board, which is designated as natural or native.
- H. Active railroad right of way, except that adjacent public street right of way shall be maintained as required in section 4-2-2 of this chapter.
- I. The owner of property adjacent to a city street which includes a center median is not required to maintain this center median area. Center medians are maintained by the Spencer park department and citizen volunteers. (Ord. 658, 8-6-2007, eff. 12-31-2007; Ord. 706, 7-6-2010)

4-2-6: APPLICATION FOR EXEMPTION:

Any property owner may submit a written application for exemption from the requirements of section 4-2-2 of this chapter to the parks and recreation director.

- A. An application for vegetation control exemption shall be in writing and shall be submitted to the office of the city clerk. The application shall clearly describe the property for which exemption is claimed by a legal description and local address. The application shall clearly and fully state the reasons for which exemption is claimed. No fee shall be required for a vegetation control exemption application.
- B. Within seven (7) days of receipt by the city clerk the parks and recreation director or his designee shall either grant the exemption or explain in writing why the exemption is denied.
- C. The following shall be considered in the evaluating an application for vegetation control exemption:
 - 1. The proposed alternative vegetation control and maintenance plan.
 - 2. The nature and use of adjacent and nearby property.
 - 3. Unusual burdens or cost to be incurred by the property owner if an exemption is not granted.
 - 4. The need to allow vegetation growth or erosion control or other environmental or conservation purposes.
 - 5. Other hardships which would result from the denial of an exemption application are not caused by the applicant and not resulting from the normal requirements of this chapter.
- D. Any person affected by the approval or denial of a vegetation control exemption may appeal that determination to the Spencer city council. (Ord. 658, 8-6-2007, eff. 12-31-2007)

4-2-7: DEFINITIONS:

For the purposes of this chapter the following terms are defined:

ADJACENT PUBLIC STREET: Includes city streets and alleys and state and county roads or highways. In a case of a frontage or local access street adjacent to a state highway the area required to be maintained by the adjacent property owner includes the area between the frontage street and the traveled portion of the highway.

NOXIOUS WEEDS: Those plants so designated by the Iowa secretary of agriculture.

PRAIRIE OR MEADOW LANDS: Grasses and flowering broad leaf plants that are native indigenous, or adapted to northwest Iowa and are commonly found in meadow and prairie plant communities, excluding noxious or common weeds.

TURF GRASSES: Grasses commonly grown in regularly mowed lawn areas, such as bluegrass, rye grass and fescue mixes.

WOODED AREA: An area where the land, trees and vegetation remain in a state natural to continuation of a woodland area. (Ord. 658, 8-6-2007, eff. 12-31-2007)

CHAPTER 3

FLUORIDATION

SECTION:

4-3-1: Installation In Water System

4-3-2: Board To Operate

4-3-1: INSTALLATION IN WATER SYSTEM:

There shall be installed in the water system of the city the necessary equipment to provide a continuous and controlled addition of fluoride into the public water supply of the city. (Ord. 108, 4-20-1964; 1991 Code)

4-3-2: BOARD TO OPERATE:

The utilities board of trustees shall be directed to install said equipment and to operate the same for the addition and supplementing of fluoride in continuous and controlled amounts to the public water supply of the city, subject to inspection and direction by the Iowa water pollution control commission and subject to chapter 455B of the Iowa Code. (Ord. 108, 4-20-1964; 1991 Code)

CHAPTER 4

SEWER REGULATIONS

SECTION:

4-4-1: Definitions

4-4-2: Control Of Sewers

4-4-3: City Sewer Services

4-4-4: Use Of Public Sewers

4-4-5: Industrial Wastes

4-4-6: Permits

4-4-7: Manholes

4-4-8: Flow Measurement

4-4-9: Testing Wastes

4-4-10: Powers And Authority For Inspection

4-4-11: Wastewater Service Charge

4-4-12: Enforcement

4-4-13: Appeals

4-4-1: DEFINITIONS:

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows. For clarification of word usage, "shall" imposes a duty, "must" states a requirement, "may" confers a power.

FEDERAL GOVERNMENT:

ADMINISTRATOR: The administrator of the United States environmental protection agency.

CFR: Code of federal regulations.

FEDERAL ACT: The federal water pollution control act as amended by the federal water pollution control act of amendments of 1972, commonly known as the clean water act, as the same now exists or may hereafter be amended.

FEDERAL GRANT: The United States government participation in the financing of the construction of treatment works as provided for by title 11, "grants for construction of treatment works" of the act and implementing regulations.

NATIONAL CATEGORICAL PRETREATMENT STANDARD: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the act (33 USC 1317) and 40 CFR chapter 1, subchapter N, parts 405-471 which applies to a specific category of industrial users.

USC: United States Code.

LOCAL GOVERNMENT:

ARTICLE: Article A of this chapter.

CITY: The city of Spencer, Iowa, and/or its authorized agents.

NPDES PERMIT: Any permit or equivalent document or requirements issued by the administrator, or, where appropriate, by the executive director to regulate the discharge of pollutants pursuant to the applicable sections of the federal or state act.

PERSON: Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, political subdivision, governmental agency, trust, estate or other legal entity or their legal representatives, agents or assigns.

SAMPLING MANHOLE: A structure located on a site from which wastes are discharged. The purpose of a sampling manhole is to provide access for the city representative to sample or measure discharges.

SEWER TYPES AND APPURTENANCES:

BUILDING SEWER: The building (house) sewer is that part of the horizontal piping of a drainage system which extends from the end of the building drains and which receives the discharge of the building drain and conveys it to a public sewer or other point of disposal.

COMBINED SEWER: A sewer which is designed and intended to receive wastewater, storm, surface and ground water drainage.

PUBLIC SEWER: A sewer owned by and subject to the jurisdiction of the city. It shall also include sewers within or outside the city boundaries that serve one or more persons and ultimately discharge into the city sanitary sewer system, even though those sewers may not have been constructed with city funds.

SANITARY SEWER: A sewer that conveys sewage or industrial wastes, or a combination of both, and into which storm, surface and ground waters or unpolluted industrial wastes are not intentionally admitted.

SEWER: A pipe or conduit for conveying sewage or any other waste liquids, including storm, surface and ground water drainage.

STORM SEWER: A sewer that carries storm, surface and ground water drainage but excludes sewage and industrial wastes other than unpolluted cooling water.

STATE GOVERNMENT:

EXECUTIVE DIRECTOR: The executive director of the department of national resources.

STATE ACT: Chapter 455B of the code of Iowa as the same now exists or may hereafter be amended.

TREATMENT:

PRETREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a public treatment works. The reduction or alteration may be obtained by physical, chemical or biological processes, or by other means, except as prohibited by 40 CFR section 403.6(d).

WATER POLLUTION CONTROL FACILITIES OR WASTEWATER SYSTEM: The publicly owned structures, equipment and processes required to collect, convey and treat domestic and industrial wastes and convey effluent to a watercourse.

WATER POLLUTION CONTROL PLANT: A publicly owned arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with waste treatment plant or wastewater treatment plant or pollution control plant.

USER CHARGES:

INDUSTRIAL COST RECOVERY: The amount to be paid annually by industrial users who contribute industrial wastes to the wastewater facilities constructed under EPA project C 190637.

O&M: The annual costs for operation and maintenance and includes replacement costs.

REPLACEMENT: Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of any of the wastewater facilities to maintain the capacity and performance for which any such facilities were designed and constructed.

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

WASTEWATER SERVICE CHARGE: The charge per quarter or month levied on all users of the wastewater facilities.

USER TYPES:

COMMERCIAL USER: Any user of wastewater facilities where business or commercial trade is conducted which discharges domestic or nondomestic wastes, or a combination of both, or has an average monthly discharge flow of greater than sixty thousand (60,000) gallons.

INDUSTRIAL USER: Any nongovernmental user of publicly owned wastewater facilities identified in the North American industry classification system, United States, 2007, U.S. census bureau as the same now exists or may hereafter be amended and supplemented. A user defined in the "NAICS Manual" may be excluded as an industrial user if it is determined by the city that such

user will introduce into the wastewater system primarily segregated wastes or wastes from sanitary conveniences rather than industrial wastes.

RESIDENTIAL USER: Any user of wastewater facilities where residency is established and only sanitary wastes are discharged.

WASTEWATER AND ITS CHARACTERISTICS:

BOD: Denotes biochemical oxygen demand and shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees centigrade (20°C), expressed in milligrams per liter.

DOMESTIC WASTES: Waterborne wastes, normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), or office buildings, free from storm and surface water and nondomestic wastes.

EFFLUENT CRITERIA: Defined in any applicable NPDES permit.

GARBAGE: Solid animal and vegetable wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

INDUSTRIAL WASTE OR PROCESS WASTE: Any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary wastewater.

MILLIGRAMS PER LITER: A unit of the concentration of water or wastewater constituent. It is 0.001 gram of the constituent in one thousand milliliters (1,000 ml) of water, sometimes used as synonymous with parts per million (ppm).

NONDOMESTIC WASTEWATER: The wastewater from industrial processes, trades or businesses as distinct from domestic wastewater. Nondomestic wastewater includes any potential infectious disease bearing wastes.

NORMAL DOMESTIC WASTEWATER CHARACTERISTICS: The normal characteristics of domestic wastewater are that the average concentration of a five (5) day BOD is established at not greater than two hundred fifty (250) parts per million, by weight; ammonia nitrogen (NH₃-N) is no greater than thirty (30) parts per million, by weight; and total suspended solids is no greater than three hundred (300) parts per million.

PARTS PER MILLION: A weight to weight ratio; the parts per million value multiplied by the factor of 8.345 shall be equivalent to pounds per million gallons of water. Parts per million and milligrams per liter (mg/l) shall be synonymous terms.

pH: The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed by one of the procedures outlined in "standard methods".

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch ($\frac{1}{2}$ " (1.27 centimeters) in any dimension.

SS: Denotes suspended solids and shall mean solids that either float on the surface of or are in suspension in water, sewage or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in "standard methods".

SANITARY WASTES: Any solid, liquid or gaseous substance discharged from residences, business buildings, institutions, commercial and industrial establishments contributed by reason of human occupancy.

SEWAGE: Used interchangeably with wastewater.

SHOCK LOAD: Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration more than five (5) times the average twenty four (24) hour concentration of flows during normal operation and may adversely affect the collection system or performance of the wastewater treatment facilities.

STANDARD METHODS: The examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.

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

WASTEWATER: The spent water of a community. It may be liquid or a combination of liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water or stormwater that may be present.

WATER QUALITY STANDARDS: Defined in the water pollution regulations of Iowa.

WATERCOURSE AND CONNECTIONS:

NATURAL OUTLET: Any outlet into a watercourse, pond, ditch, lake or other body of surface groundwater.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 215, 3-20-1977; 1991 Code; Ord. 687, 5-18-2009)

4-4-2: CONTROL OF SEWERS:

A. Control By City Council: The sewer system shall be under the control of the City Council, with a committee from the Council appointed by the Mayor subject to the approval of the Council to supervise and report on matters pertaining to sewers.

B. Application Of Connection: Any person desiring to make a connection with the sewer system shall first file with the City Clerk an application therefor, setting forth the location and description of the property to be connected with the sewer system and for what purpose the sewer is to be used. The committee shall grant the application for the connection and the plumbing inspector or the Public Works Director shall determine where the connection shall be made and give such instructions as shall ensure a good connection.

C. Connection: No person shall tap any sewer at any other place than that of the regular junction or "T" built in the sewer for that purpose without the written permission of the Public Works Director.

D. Inspection: All connections with the sewer system shall be inspected and approved by the plumbing inspector before being covered and he shall keep a record of such connections.

E. Connection Fee: If the property described in the application has not been assessed or is not subject to an assessment of a special tax for the payment of the cost of construction of the sewer to which connection is made, a connection fee shall be collected by the City Clerk before a permit shall be issued. The connection fee shall be as determined by the City Council, taking into consideration the cost of the sewer line providing service, the benefits to the user and any special circumstances existing which reasonably affect the determination of an equitable charge to the user. (Ord. 215, 3-20-1977; Ord. 687, 5-18-2009)

4-4-3: CITY SEWER SERVICES:

A. Connection Requirements:

1. Sewer Main Connection By Owner: Every structure wherein persons reside, congregate, or are employed which is situated on a lot or parcel to which a public sewer main is available shall be connected to the sewer main by the owner of the premises in the most direct manner, with a separate connection for each structure.

2. Public Sewer Main Available: A public sanitary sewer main shall be deemed to be available if a service line connection can be made as required under this Code of sufficient depth that a functional gravity service line may be connected and if the sewer main and service line may be constructed at a sufficient depth to prevent risk of freezing.

The City Public Works Director shall, in his or her discretion, determine the applicability of the foregoing provisions.

3. Private Systems Cleaned: All private sanitary sewage treatment facilities replaced by a connection to a City sewer main shall be promptly cleaned of all existing sewage and removed, filled, or otherwise properly abandoned as directed and approved by the Public Works Director.

4. New Public Sewer Mains:

a. When a new Spencer sanitary sewer main has been constructed to which a structure in which persons, reside, congregate or are employed, not served by a City sanitary sewer main may be connected, the property owner shall cause the connection to be accomplished within ninety (90) days of the date notice is given by the City requiring a connection. If such a new sanitary sewer connection becomes available between October 15 and March 31 of any year, the property owner shall have until the following June 15 to accomplish the connection, unless the following provisions apply:

(1) Property Served By A Private Sewage Disposal System: If property within the City of Spencer which is required to be connected to a newly constructed Spencer sanitary sewer main under this subsection A4a, is served by a functioning private sewage disposal system, connection to the public sewer main shall not be required for a period of five (5) years from the date when the connection becomes available. If the private sewage disposal system fails to function or is tested in accordance with the provisions of section 455B.172(11) of the Code of Iowa and fails the inspection, then the failed private treatment system shall be removed from service and a connection to the sanitary sewer main shall be accomplished within the time periods specified in this subsection A4a.

(2) Five Year Extension: At the option of a property owner, when a connection to the sanitary sewer system of the City is required pursuant to subsection A4a(1) of this section, the property owner may elect to have the private sewage disposal system inspected as required under section 455B.172(11) of the Code of Iowa. If the private treatment system passes the inspection, connection to the sanitary sewer main may be delayed for an additional five (5) year period, so long as the private treatment system continues to function.

b. The rights and obligations of a property owner under this subsection A4 may be transferred and assigned to a purchaser.

B. Construction:

1. Plumbing Code To Govern: The rules and regulations set forth in the current edition of the Iowa State Plumbing Code, as modified and adopted by the City ¹, shall govern and control the construction and installation of all new and the reconstruction and repair of all old sewer connections.

2. Grease, Oil, Sand Interceptors: Grease, oil and sand interceptors shall be provided when, in the opinion of the City's plumbing inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any inflammable wastes, sand or other harmful ingredients. All interceptors shall be of a type and capacity approved by the plumbing inspector and shall be located as to be readily and easily accessible for cleaning and inspection.

C. Discontinued Services: When any building or structure is wrecked or moved ² and the sewer service for the structure is discontinued, all sewer connections shall be properly stopped or cut off on publicly owned property in a manner approved and inspected by the City. The disconnection must be completed within thirty (30) days of the completion of demolition or move, unless a written request for an extension is approved by the Public Works Director. (Ord. 215, 3-20-1977; Ord. 367, 2-6-1989; Ord. 687, 5-18-2009; Ord. 703, 6-21-2010; Ord. 826, 2-19-2018)

1. See also section 8-4-13 of this Code.
2. See title 8, chapter 6 of this Code.

4-4-4: USE OF PUBLIC SEWERS:

A. Storm Sewers: No person, firm or corporation shall discharge or cause to be discharged to any natural outlet or storm sewer any sanitary sewage or other polluted waters.

Stormwater and all other unpolluted drainage shall be discharged into such sewers as are specifically designed as storm sewers or to a natural outlet approved by the City.

B. Sanitary Sewers: No person, firm or corporation shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

Any such connections made before or after the effective date hereof shall be considered illegal and shall be subject to immediate removal by the owner of the premises so connected and at such owner's expense.

Should the owner of such an illegal connection fail to remove the connection within sixty (60) days after notification by certified mail, the City may take any appropriate action to cause the connection to be removed.

No person, firm, corporation or municipality constructing a sanitary sewer or building sewer shall leave same open, unsealed or incomplete in such a fashion as to permit storm, surface or subsurface water to enter such sewers.

Any waters or wastes having: 1) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or 2) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or 3) containing ammonia nitrogen (NH₃-N) greater than thirty (30) parts per million, or 4) having an average monthly flow greater than sixty thousand (60,000) gallons, or 5) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the City. Where necessary, in the opinion of the City, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: 1) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or 2) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or 3) reduce the ammonia nitrogen (NH₃-N) to thirty (30) parts per million by weight, and 4) control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to the proposed preliminary treatment facilities shall be submitted for the approval of the City, and no construction of such facilities shall be commenced until these approvals are obtained in writing.

C. Discharges Prohibited: No person shall discharge or cause to be discharged to any public sewer any of the following described substances, materials, waters and/or wastes:

1. Any gasoline, benzene, naphtha, fuel, oil, or other inflammable or explosive liquid, solid or gas.
2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant including, but not limited to, the following list indicating maximum concentrations allowable in the wastes as discharged to the public sewer:

	Milligrams Per Liter (<u>mg/L</u>)
Arsenic	2
Cadmium	1
Chlorinated hydrocarbons (total identifiable)	0.5
Copper	1
Cyanide	1
Iron	100
Lead	1
Mercury	0.05
Nickel	5
Phenolic compounds	100
Silver	1
Total chromium	2
Zinc	1

3. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the water pollution control center.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the water pollution control center such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

The accidental discharge of any prohibited liquid or solid material into any sewer or natural outlet, either directly or indirectly, shall be reported to the director and the waste treatment plant operator immediately by the individual company or industry responsible for the discharge.

Although no penalty, as such, will be levied as a result of such accidental discharge, it shall be understood that the individual, company or industry shall not be relieved of its responsibilities and shall be liable for any expense, loss or damage occasioned by the city by reason of such accidental discharge.

D. Discharge Prohibited Except By Permit: No person, firm or corporation shall discharge, or cause to be discharged, the following described substances, materials, waters or wastes without a discharge permit issued pursuant to section 4-4-6 of this chapter:

1. Any liquid or vapor having a temperature higher than one hundred twenty degrees Fahrenheit (120°F) (48° centigrade).
2. Any water or wastes which contain grease, fats, wax or oil, whether emulsified or not, in excess of one hundred milligrams per liter (100 mg/l), or other substances that will solidify or become discernibly viscous at temperatures between thirty two (32) and one hundred fifty degrees Fahrenheit (150°F) (0-65° centigrade).
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths ($\frac{3}{4}$) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city.
4. Any water or wastes containing nonedible type oil or grease such as petroleum or mineral oil or grease.
5. Any water or wastes that contain more than ten (10) parts per million by weight of the following gases: hydrogen sulphide, sulphur dioxide or nitrous oxide.
6. Any water or wastes that contain phenols or other taste and odor producing substances in excess of five-tenths of one percent (0.5) parts per million by weight.
7. Any water or wastes, acid or alkaline in reaction and having corrosive properties capable of causing damage or hazard to structures, equipment or personnel of the city.
8. Any water or wastes containing any of the constituents listed in subsection C of this section, or any other objectionable or toxic substances.
9. Any water or wastes containing the discharge of strong acid iron pickling wastes or concentrated plating solution whether neutralized or not.
10. Any noxious or malodorous gas or substances which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
11. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.
12. Materials which exert or cause: unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate). Excessive discolorations such as, but not limited to, dye wastes and vegetable tanning solutions.
13. Any waters or wastes containing substances which are not amenable to treatment or reduction by the water pollution control processes employed or are amenable to treatment only to such a degree that the water pollution control plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving water.
14. Any water or wastes which by interaction with other water or wastes in the public sewer system releases obnoxious gases or develops color of undesirable intensity; or forms suspended solids in objectionable concentration; or creates any other conditions deleterious to structures and treatment processes, shall be subject to control or shall be banned from the system as determined by the city.
15. Any wastes, which in the opinion of the city, may harm either the sewers, water pollution control plant, treatment process, equipment, or have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the city shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the treatment processes, capacity of the water pollution control works, degree of treatability of wastes in question and other pertinent factors. Factors influencing this ruling and known conditions at the time of this ruling shall be recorded by the city. (Ord. 215, 3-20-1977; Ord. 687, 5-18-2009)

4-4-5: INDUSTRIAL WASTES:

A. Discharge Permit Requirements: No wastes shall be discharged from any "industrial user" as defined in section 4-4-1 of this chapter, into the city sewers or into any sewers under the control of the city without a discharge permit issued by the city.

B. Pretreatment Facilities: A person, firm or corporation discharging or proposing to discharge industrial wastes into any sewer shall, at his or its own expense, provide such pretreatment facilities as may be necessary to meet the condition of his or its discharge permit.

1. Use Of Facilities: The facilities may be used to:

- a. Reduce or modify the objectionable characteristics or constituents of such industrial wastes to meet the limits or conditions provided for in section 4-4-4 of this chapter.

- b. Meet the current standards and regulations of the local, state and federal regulatory agencies which pertain to the operation and performance of the water pollution control works.

2. Facilities Approval: Plans, specifications and other pertinent information relating to such treatment facilities shall be submitted for the approval of the city, and no construction of such facilities shall be commenced until said approval is obtained in writing.

3. Facilities Maintenance And Records: Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense and shall be subject to periodic inspection by the city. The owner shall maintain operating records and shall submit to the city a monthly summary report of the character of the influent and effluent to show the performance of the treatment facilities.

C. Unpolluted Water: Unpolluted water from air conditioning, cooling, condensing systems shall be discharged to a storm sewer or natural outlet approved by the city. Where a storm sewer or natural outlet is not available, such unpolluted water may be discharged to a sanitary sewer only after written approval of the city.

Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids shall be pretreated for removal of the pollutants and the resultant clear water shall be discharged in accordance with section 4-4-4 of this chapter.

D. Industrial Agreements: No statement contained in section 4-4-6 of this chapter shall be construed as preventing any special agreement or arrangement between the city and any person, firm or corporation whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment of equitable wastewater service charges therefor. To qualify for industrial waste rate agreements, any person, firm or corporation shall agree to the following requirements:

1. Execute an approved agreement form as provided by the city, which agreement shall state the maximum daily quantity of wastes to be discharged to the building sewer through an approved control structure. The quantities shall include, but shall not be limited to, flow expressed in gallons per day, biochemical oxygen demand (BOD) expressed in pounds per day, suspended solids (ss) expressed in pounds per day, ammonia nitrogen expressed in pounds per day, and other waste characteristics as may be required by the city.

2. Construct and maintain approved control structures as outlined in this chapter and approved by the city.

3. Adjust, modify or change the industrial waste discharge quantities, characteristics, rates and values as may be indicated to enable the city to operate the water pollution control plant to meet the current plant effluent standards.

4. Adjust, modify or change the industrial waste discharge qualities, characteristics, rates and values as may be necessary to meet the current standards adopted by the local, state and federal regulatory agencies. (Ord. 215, 3-20-1977)

4-4-6: PERMITS:

A. Requirement: All industrial waste discharges, as defined in section 4-4-1 of this chapter, and all users to which subsection 4-4-4D of this chapter is applicable shall file an application for a discharge permit with the superintendent of public works.

B. Application: The application shall contain the following information:

1. Name and address.

2. Title of official making such report.

3. Location of plant.

4. The nature of the business conducted in such plant.

5. The volume of industrial waste mixture and sewage discharged by each plant.

6. The average daily number of employees employed in each plant by shifts.

7. The source of water supply of each plant and the volume of water used by each such plant daily, specified separately as to each source.

8. Such additional information as is deemed applicable to ascertain the volume, nature and composition of industrial waste so discharged.

Upon application for a permit, the superintendent of public works may:

a. Reject the wastes;

b. Require pretreatment to an acceptable condition for discharge to the public sewers;

c. Require control over the quantities and rates of discharge; and/or

d. Require payment to cover the added cost of handling and treating the wastes not covered by the wastewater service charges under the provisions of section 4-4-11 of this chapter.

C. Terms And Conditions Of Permit:

1. Terms: All wastewater discharge permits shall be expressly subject to all provisions of this chapter and all rates and charges established by the city. All permits shall be reviewed annually. Permits may be terminated or a new permit required following the annual review. All permits shall contain the following terms:

a. The typical wastewater strength and water use for the flow in each building sewer.

b. Average and maximum limits on the parameter of the discharger's wastewater strength.

2. Conditions: Wastewater discharge permits may contain any or all of the following conditions:

a. Limits on rate and time of discharge or requirements for flow regulation and equalization to eliminate shock loading.

- b. Requirements for inspection and sampling facilities, including city access to such facilities.
- c. Monitoring program which may include: sampling locations; frequency and method of sampling; number, types and standard of test; and establishing a reporting schedule.
- d. Submission of technical reports or discharge reports.
- e. Maintenance of plant records relating to wastewater discharges, as specified by the city and affording city access thereto.
- f. Other conditions as deemed appropriate by the city to ensure compliance with this chapter or the terms and conditions of the permit.

D. Change Of Permit Terms And Conditions: The city may change the terms and conditions of a wastewater discharge permit, including changing the limits on the elements of wastewater strength from time to time as circumstances may require. The city shall allow a discharger reasonable time to comply with any required changes in the permit except that a change in limits of wastewater strength shall immediately affect calculation of a sewage service charge.

E. Transfer Of Permit: A wastewater discharge permit shall not be assigned or transferred without written approval of the city.

F. Termination: The city may terminate any wastewater discharge permit for violation of the terms and conditions of the permit or the provision of this chapter. A permit shall be terminated by the city upon thirty (30) days' prior written notice if the discharger exceeds the maximum allowable discharge limits. A discharger who has been so notified may apply for a new permit. If a new permit is not issued within said thirty (30) days, the wastewater will no longer be accepted by the city. (Ord. 215, 3-20-1977)

4-4-7: MANHOLES:

A. Permission Required To Open: It shall be unlawful to open or enter any manhole of the sewer system without first obtaining the express permission of the public works director.

B. Sampling: Any commercial or industrial user discharging nondomestic or industrial wastes into the city's sanitary sewers shall, if required by the city, construct a suitable sampling manhole, downstream from any treatment, storage tank or other approved works, to facilitate observations, continuous measurements and sampling of all such wastes. Continuous sampling shall be by an automatically operated sampling device. Continuous flow measurement shall be indicating, recording and totalizing. Where pH control is necessary, or where other waste characteristics require special control, suitable waste monitoring equipment shall be installed by the user to monitor and record those waste characteristics being controlled.

The sampling manhole shall be accessible to authorized city personnel on a twenty four (24) hour basis, and it shall be constructed in accordance with plans approved by the public works director. The control structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe, accessible and in operating condition at all times.

In its sole discretion, the city may waive the requirement for a sampling manhole if the user agrees to pay wastewater service charges required under section 4-4-11 of this chapter, and that the strength of waste on which the service charge is based on tests made on similar wastes discharged by other industries of the same type, if such information is available; if not, by such other methods as the city may wish to employ. Whatever method is used for finding the strength of the waste, the determination of the city shall be binding as a basis for charges. (Ord. 215, 3-20-1977; Ord. 328, 1-3-1986; 1991 Code; Ord. 687, 5-18-2009)

4-4-8: FLOW MEASUREMENT:

The volume of flow used in computing sewer rental charges shall be based upon actual in situ flow measurements.

In the event the city finds it is not practical to measure either the actual sewage and industrial waste flow or the flow of diverted water, it may at its discretion approve some other manner of computing or estimating the amount of water diverted from or discharged to the public sanitary sewerage system.

Also, in the event that the city finds it is not practical to make an actual measurement of the waste discharge from the premises of the customer into the public sanitary sewerage system, the city may at its discretion accept as the volume of waste discharged from the premises that are shown by water meters of the city.

Where a person discharging industrial wastes into the sanitary sewers of the city procures any part or all of his water supply from sources other than the Spencer municipal utilities, all or part of which is discharged into the sanitary sewer, the person discharging said waste shall install and maintain, at his expense, water meters of a type approved by the city for the purpose of determining the proper volume of flow to be charged. (Ord. 215, 3-20-1977)

4-4-9: TESTING WASTES:

All measurements, tests and analyses of the characteristics of water 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 and shall be determined at the structure provided, or upon suitable samples taken at said control structure. In the event that no special control structure has been required, the control structure shall be considered to be the nearest downstream control structure in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the water pollution control works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether 24 hour composite of all outfalls of the premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD, ammonia and suspended solids analyses are obtained from a 24 hour composite of all outfalls whereas pHs are determined from periodic grab samples.) (Ord. 215, 3-20-1977; Ord. 687, 5-18-2009)

4-4-10: POWERS AND AUTHORITY FOR INSPECTION:

A. Access To Private Property: The City or its duly authorized employees bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The City or its representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and

source of discharge to the sewers or waterways or facilities for waste treatment.

B. Duty Of Care: While performing the necessary work on private properties referred to in subsection A of this section, the City or its duly authorized employees shall observe all safety rules applicable to the premises established by the company.

C. Easement Access: The City or its duly authorized employees bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the easement. (Ord. 215, 3-20-1977)

4-4-11: WASTEWATER SERVICE CHARGE:

A. Comprehensive Sewer Service Charge: Every person whose premises are served by connection to the sanitary sewer system of the City, either directly or indirectly, shall pay to the City a comprehensive sewer service charge for the use of and for services supplied by the water pollution control facilities of the City, which charges may consist of:

1. Basic user charge for the operation and maintenance of the water pollution control plant.
2. A surcharge for the operation and maintenance of the water pollution control plant for wastes contributed of strengths greater than domestic wastewater.
3. A basic user charge for the O&M of the sanitary sewer system.
4. A billing and collection charge.
5. A debt service charge.
6. A CSI surcharge. CSI surcharge will be evaluated every three (3) years. When total project is completed, CSI surcharge will be removed.
7. Wastewater treatment plant replacement charge.

B. Rates: Each user shall pay for the services provided by the City, based on his use of the treatment works as determined by a water meter or meters acceptable to the City.

1. For residential contributors, monthly user charges will be based on actual water usage.
2. For industrial and commercial contributors, user charges shall be based on water used during the current billing period. If a commercial or industrial contributor has a consumption use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter(s) or a separate water meter(s) installed and maintained at the contributor's expense, and in a manner acceptable to the City.
3. All residential, industrial and commercial users shall also pay a monthly CSI surcharge.

C. Classification Of Users: Users of the Spencer sewer system shall be classified and defined as follows:

1. Metered Users: Metered users are those users whose sole water supply is supplied by the Spencer Municipal Utilities and is measured by approved metering devices.
2. Domestic Unmetered Users: Domestic unmetered users are users of the sewer system who have available a water supply not provided and metered by the Spencer Municipal Utilities and who discharge only domestic waste into the sewer system.
3. Nonmetered Nondomestic Users: Nonmetered nondomestic users shall be all users other than metered users and domestic unmetered users, as defined herein.

D. Rate: The rate of monthly sewer user charges for each class of user shall be as follows:

1. Metered Users:

- a. Effective for all sanitary sewer user charge statements issued after July 1, 2019, the following rates shall apply:

First 1,000 gallons or less - \$9.31

Next 49,000 gallons per month, \$0.00486 per gallon

All usage over 50,000 gallons per month, \$0.00347 per gallon

- b. Effective for all sanitary sewer user charge statements issued after July 1, 2020, the following rates shall apply:

First 1,000 gallons or less - \$9.68

Next 49,000 gallons per month, \$0.00506 per gallon

All usage over 50,000 gallons per month, \$0.00361 per gallon

- c. Effective for all sanitary sewer user charge statements issued after July 1, 2020, the following rates shall apply:

First 1,000 gallons or less - \$9.68

Next 49,000 gallons per month, rounded up to the next 1,000 gallon increment - \$5.06 per 1,000 gallons

All usage over 50,000 gallons per month, rounded up to the next 1,000 gallon increment - \$3.61 per 1,000 gallons

2. Domestic Unmetered Rates:

<u>Description Of User</u>	<u>Rate (Per Month) 7-1-2018</u>	<u>Rate (Per Month) 7-1-2019</u>	<u>Rate (Per Month) 7-1-2020</u>
Single-family dwelling	\$31.13	\$32.56	\$33.86
Multi-family unit:			
1 bedroom	25.94	26.98	28.06
2 bedrooms	31.13	32.56	33.86

3. Nonmetered Domestic Unmetered Users: Such users shall pay a minimum monthly rate of:

<u>Description Of User</u>	<u>Rate (Per Month) 7-1-2018</u>	<u>Rate (Per Month) 7-1-2019</u>	<u>Rate (Per Month) 7-1-2020</u>
Businesses with 1 or 2 employees	\$31.13	\$32.56	\$33.86
Businesses with 3 or more employees	47.99	49.91	51.91

These rates apply only to users whose waste is considered to be equal in strength and volume to domestic waste. Rates will be imposed by the City, on an individual basis, upon those users whose waste exceeds domestic waste volume or strength, pursuant to subsection D5, "Extra Strength Users", of this section.

4. Nonmetered Industrial Users: Nonmetered industrial users of the sewer system who have available a water supply not provided and metered by Spencer Municipal Utilities. These users shall install water source metering, discharge metering, or both as required by the City.

5. Extra Strength Users: Users who contribute wastewater that has greater strength than normal domestic wastewater will be charged a surcharge above the rate for normal residential customers. The user charge for extra strength users is calculated as follows:

Total monthly charge to extra strength user = base charge + flow charge + surcharge for BOD + surcharge for SS + surcharge for other pollutants =

$B + V(UFC) + V(UBODC) (BOD_{ES} - BOD_{ND}) (.00834)$

$+V(USSC) (SS_{ES} - SS_{ND}) (.00834)$

$+V(UXC) (X_{ES} - X_{ND}) (.00834)$

Where:

B	=	Base cost =	\$1.85 (July 1, 2018) 1.93 (July 1, 2019) 2.00 (July 1, 2020)
V	=	Volume of wastewater discharge in 1,000 gallons	
UFC	=	Unit flow cost =	\$1.13 (July 1, 2018) 1.18 (July 1, 2019) 1.23 (July 1, 2020)
UBODC	=	Unit BOD cost =	\$0.56 (July 1, 2018) 0.58 (July 1, 2019) 0.61 (July 1, 2020)
BOD_{ES}	=	BOD concentration contributed by the extra strength user in milligrams per liter	
BOD_{ND}	=	BOD concentration of normal domestic wastewater = 250 milligrams per liter	
USSC	=	Unit suspended solids charge =	\$0.26 (July 1, 2018) 0.27 (July 1, 2019) 0.28 (July 1, 2020)
SS_{ES}	=	SS concentration contributed by the extra strength user in milligrams per liter	
SS_{ND}	=	SS concentration of normal domestic wastewater = 300 milligrams per liter	
UAC	=	Unit ammonia charge =	\$1.75 (July 1, 2018) 1.82 (July 1, 2019)

UA _{ES}	=	Ammonia concentration contributed by the extra strength user in milligrams per liter
U _{AND}	=	Ammonia concentration of normal domestic wastewater = 30 milligrams per liter
UXC	=	Unit charge for other pollutants - determined as necessary
X _{ES}	=	Other pollutant concentration contributed by the extra strength user in milligrams per liter
X _{ND}	=	Other pollutant concentration in normal domestic wastewater
.00834	=	Unit conversion factor

6. CSI Surcharge: Each classification of user shall also pay a CSI monthly surcharge in the amount of:

\$11.25 effective July 1, 2015

12.50 effective July 1, 2016

13.75 effective July 1, 2017

15.00 effective July 1, 2018

16.25 effective July 1, 2019

7. Billing; Payment; Collection:

a. Effective Date: The sewer user charges and rate established herein shall become effective from and after May 1, 1985, and all bills for sewer user charges made after that date shall be based on the rate established herein.

b. Measurement By Meters: Such rates or charges shall be based upon the amount of water supplied by the Spencer Municipal Utilities, as shown by the water meter readings of that company, except for nonmetered users. All persons required to pay the comprehensive sewer service charge established in this chapter shall receive billing for such charge separately stated on the Municipal utilities' bill and shall pay such charges to the Municipal utilities as billed. Those users who are billed by the Municipal utilities monthly shall pay their comprehensive sewer user charges monthly.

c. Date Due; Penalty: All comprehensive sewer user charges are due and payable within twenty (20) days after the date of billing. Accounts not paid within twenty (20) days will be assessed a delinquency charge of one and one-half percent (1.5%) per month on each delinquent invoice.

d. Special Rates: Where, in the judgment of the City, special conditions apply to the use of water to the extent that the application of the comprehensive sewer user charge or method of measurement would be inequitable or unfair to either the City or the user, a special rate or method of measurement shall be established by the City. Such rates or methods of measurement shall be subject to approval by the City. In such cases, the City may require that water consumed on the premises concerned shall be separately metered at the expense of the user, who shall also pay the cost of the reading of such meters and any increased billing or collecting charges resulting therefrom.

e. Collection Of Unpaid Charges; Notice; Establishment Of Property Lien:

(1) Comprehensive sewer user charges shall be delinquent when a charge has been unpaid for a period of two (2) months following the billing date.

(2) Delinquent sewer charges are a lien against the property served. When charges become delinquent, the City may terminate service to the property and/or may certify the delinquent charges to the Clay County Treasurer to be collected in the same manner as Real Property Taxes, all pursuant to the provisions of section 384.84 of the Code of Iowa.

(3) Termination of sanitary sewer service to a property or certification of delinquent sanitary sewer charges to the County Treasurer shall not be accomplished until ten (10) days after a written notice is sent by ordinary mail by the City to the account holder, which notice shall include the amount of the delinquent charges and shall notify the account holder that, if the charges are not paid in full, service will be terminated and/or that the amount of the delinquent charges will be certified to the County Treasurer for collection. The notice shall further notify the account holder that a hearing may be requested before the City Manager prior to the discontinuance of service.

If the account holder is a tenant and if the owner or landlord of the property has made a written request for notice to the City, the notice shall also be given to the owner or landlord.

(4) If the account holder, owner or landlord requests a hearing before the City Manager, the City Manager shall promptly schedule and hold a hearing and determine if termination of service is justified. The City Manager shall promptly notify the interested parties of his decision.

(5) An administrative fee of five dollars (\$5.00) shall be added to delinquent accounts certified to the County Treasurer for collection.

(6) In addition to the foregoing sanitary sewer charge collection procedures as authorized under section 384.84 of the Iowa Code, the City shall also have and reserves the right to collect unpaid sanitary sewer charges by filing an action for collection in the Clay County Small Claims Court. (Ord. 215, 3-20-1977; Ord. 314, 4-1-1985, eff. 5-1-1985; Ord. 459, 9-19-1994; Ord. 622, 4-4-2005,

eff. 7-1-2005; Ord. 668, 7-21-2008, eff. 9-1-2008; Ord. 687, 5-18-2009; Ord. 714, 1-3-2011, eff. 7-1-2011; Ord. 738, 5-7-2012; Ord. 783, 4-20-2015; Ord. 786, 6-15-2015; Ord. 830, 5-7-2018; Ord. 848, 8-19-2019; Ord. 849, 8-19-2019)

4-4-12: ENFORCEMENT:

A. Notice To Correct: Any person found to be violating any provisions of this chapter shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Such notice may be given by certified mail or by personal service. If given by certified mail, the notice shall be deemed given when mailed. The offender shall, within the period of time stated in such notice, permanently cease all violations specified therein.

B. Violation A Misdemeanor: Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor, and on conviction thereof, shall be imprisoned for a period not exceeding thirty (30) days or fined in an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which such violation shall continue shall be deemed a separate offense.

C. Other Remedies For Violations: Any person violating any of the provisions of this chapter shall be liable to the City for any damage, loss, cost or expense occasioned by reason of such violation.

A violation of any of the provisions of this chapter shall be deemed to be a nuisance, and the City Council, after reasonable notice and opportunity for hearing, may:

1. Order necessary measures to correct and abate such violation.

2. Order the service to the premises involved discontinued and authorize the Public Works Director to disconnect any tapping or connections made to the wastewater system of the City. In the event a violation of the provisions of this chapter creates an immediate hazard to the wastewater facilities or to the operation thereof, or to the health and safety of any person or to the preservation and protection of any property, the Public Works Director is authorized and directed to perform all necessary acts, without prior notice or hearing, to correct and abate such violations and may enter on private property so to do.

The cost of any corrective measures required or permitted under the provisions of this section shall be a lien on the property served by the wastewater facilities in connection with which such violation has occurred and shall be levied and collected by the City Council as ordinary taxes.

In addition to any other remedies provided for in this chapter, the City may bring suit to collect any sums due it, including user charges and industrial cost recovery charges, from the person or persons incurring the liability for the payment of such charges. (Ord. 215, 3-20-1977; Ord. 687, 5-18-2009)

4-4-13: APPEALS:

If the findings, order or decision of the City, made in pursuance of the provisions or of this chapter, are not acceptable to any person, such person shall have the right to appeal as follows:

Two (2) professional engineers shall be chosen, one by the industry and the other by the City, neither of whom shall be a regular employee of either party. Such persons shall act as consultants. As soon as such consultants are chosen, the City shall file with them a copy of the complaint and the decision of the Superintendent of Public Works and it shall be the duty of such consultants to investigate the complaint and to agree either to affirm or reject the findings of the Superintendent of Public Works and file a report with the City within a reasonable time setting down their decision. If the consultants so chosen are unable to agree, they shall choose a third professional engineer, and the decision or recommendation of the majority shall be reported to the City Council. Upon consideration of the report, the Council will make a final decision which shall be reported to the persons and the Superintendent of Public Works.

The fees and expenses of the consultant appointed by the person shall be paid by the person, and the fees and expenses of the consultant appointed by the City shall be paid by the City. The fees and expenses of the third consultant shall be equally divided between the person and the City. (Ord. 215, 3-20-1977)

ARTICLE A. SANITARY SEWER DISTRICTS

SECTION:

4-4A-1: West 11th Street 1996 Sanitary Sewer Project District

4-4A-2: 10th Avenue SE Sanitary Sewer District

4-4A-3: 4th Avenue SW Sanitary Sewer District

4-4A-4: 4th Avenue SW (Part II) And 25th Street SW Sanitary Sewer District

4-4A-5: 35th Avenue West Sanitary Sewer District

4-4A-6: 35th Avenue West Sanitary Sewer District No. 2

4-4A-7: 2004 Corn Belt Industrial Park, Subdivision No. 3, Sanitary Sewer And Water Extension District

4-4A-8: Deerfield Park Third And Fourth Additions Sanitary Sewer District

4-4A-9: East Milwaukee Street Sanitary Sewer District

4-4A-10: 18th Avenue West Sanitary Sewer District

4-4A-11: Menard's Sanitary Sewer District

4-4A-1: WEST 11TH STREET 1996 SANITARY SEWER PROJECT DISTRICT¹ :

A. Title And Description: There is hereby established a sanitary sewer district in the City designated the "West 11th Street 1996 Sanitary Sewer Project District", which shall include Lots 18 through 23, inclusive, of Deerfield Estates First Addition to the City of Spencer and Lots 1 through 10, inclusive, of Westshire 7th Addition to the City of Spencer.

B. Fees: There is hereby adopted and established a sanitary sewer connection fee for each platted lot in the district, as set out in the "final connection fee schedule" prepared by the City's consulting engineers. The total connection fee for each lot shall be the amount designated as follows:

FINAL CONNECTION FEE SCHEDULE**WEST 11TH STREET 1996 SANITARY SEWER PROJECT**

<u>Legal Description</u>	<u>Total Connection Fee</u>
Lot 1 Westshire 7th Addition	\$1,948.74
Lot 2 Westshire 7th Addition	1,316.17
Lot 3 Westshire 7th Addition	2,048.27
Lot 4 Westshire 7th Addition	1,208.73
Lot 5 Westshire 7th Addition	2,169.64
Lot 6 Westshire 7th Addition	2,323.01
Lot 7 Westshire 7th Addition	2,201.91
Lot 8 Westshire 7th Addition	2,201.91
Lot 9 Westshire 7th Addition	2,201.91
Lot 10 Westshire 7th Addition	2,201.91
Lot 18 Deerfield Estates 1st	2,277.76
Lot 19 Deerfield Estates 1st	2,126.37
Lot 20 Deerfield Estates 1st	2,126.37
Lot 21 Deerfield Estates 1st	2,126.37
Lot 22 Deerfield Estates 1st	839.54
Lot 23 Deerfield Estates 1st	839.54

C. Payment Of Fees: The connection fees established herein, together with interest as provided, shall be paid to the City when a sanitary sewer connection application is filed with the City. All amounts collected under the provisions of this section shall be paid to the City and shall be used only for the purposes of operating the sanitary sewer utility, or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer utility. (Ord. 485, 11-17-1997; Ord. 698, 3-1-2010)

Notes

- ¹ 1. IC 384.38(3).

4-4A-2: 10TH AVENUE SE SANITARY SEWER DISTRICT:

A. District Established; Description: There is hereby established a City sanitary sewer district designated as the "10th Avenue SE Sanitary Sewer District" legally described as follows:

The East Half of the East Half of the Southeast Quarter of the Southeast Quarter of Section 18, Township 96 North, Range 36 West of the Fifth Principal Meridian, lying west and southwest of the west and southwesterly right-of-way line of 10th Avenue Southeast and 4th Street Southeast, Spencer, Clay County, Iowa, except the south 243 feet thereof,

and

the North 664 feet of the South 907 feet of the West 300 feet of the Southwest Quarter of Section 17, Township 96 North, Range 36 West of the Fifth Principal Meridian, Spencer, Clay County, Iowa.

B. Sewer Connection Fee:

1. A sanitary sewer connection fee equal to twenty one dollars forty seven cents (\$21.47) multiplied by the total street frontage, in feet, of the property to be served by the sanitary sewer connection is hereby established for connection to the sanitary sewer in the district.

2. The sanitary sewer connection fees herein established are due and payable when a sanitary sewer connection application is filed with the city.

3. The sanitary sewer connection fee herein established is based upon the cost incurred by the city in the construction of the sanitary sewer main and shall not include any interest.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the city and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 519, 8-16-1999; Ord. 698, 3-1-2010)

4-4A-3: 4TH AVENUE SW SANITARY SEWER DISTRICT:

A. District Established; Description: There is hereby established a city sanitary sewer district designated as the "4th Avenue SW sanitary sewer district" legally described as follows:

All of Lots 1, 2 & 3 of C & L First Addition, Spencer, Clay County, Iowa,

And,

All of Lot 1, Woodhall First Addition, Spencer, Clay County, Iowa,

And,

The south 318 feet of the west 300 feet of the east 388 feet of the Northeast Quarter of Section 24, Township 96 North, Range 37 West of the 5th Principal Meridian, Clay County, Iowa,

And,

The north 650 feet of the west 300 feet of the east 388 feet of the Southeast Quarter of Section 24, Township 96 North, Range 37 West of the 5th Principal Meridian, Clay County, Iowa.

B. Sewer Connection Fee:

1. A sanitary sewer connection fee equal to twenty dollars fifteen cents (\$20.15) multiplied by the total street frontage, in feet, of the property to be served by the sanitary sewer connection is hereby established for connection to sanitary sewer in the district.

2. The sanitary sewer connection fees herein established are due and payable when a sanitary sewer connection application is filed with the city.

3. The sanitary sewer connection fee herein established is based upon the cost incurred by the city in the construction of the sanitary sewer main and shall not include any interest.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the city and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 526, 4-3-2000; Ord. 698, 3-1-2010)

4-4A-4: 4TH AVENUE SW (PART II) AND 25TH STREET SW SANITARY SEWER DISTRICT:

A. District Established; Description: There is hereby established a city of Spencer sanitary sewer district designated as the "4th Avenue SW (part II) and 25th Street SW sanitary sewer district" legally described as follows:

Beginning at the northwest corner of Lot 1, Golf Course First Addition, Spencer, Iowa, and running from this point of beginning east on the north line of said Lot 1 and the extension thereof to a point which is 300 feet east of the east line of 4th Avenue Southwest, as measured perpendicular thereto; south parallel with and 300 feet east of the east line of said 4th Avenue Southwest to the centerline of 25th Street Southwest, Spencer, Iowa; thence west along the centerline of said 25th Street Southwest to the centerline of 4th Avenue Southwest; thence south along the centerline of 4th Avenue Southwest to the south line of Knipe's First Addition, Spencer, Iowa; thence west along the south line of said Knipe's First Addition to the southwest corner of Lot 4, said Knipe's First Addition; thence north along the west line of said Lot 4, and the extension thereof, to the centerline of 25th Street Southwest; thence east along the centerline of 25th Street Southwest to the extension of the east line of Lot 6, Hagedorn's Third Addition, Spencer, Iowa; thence north along the east line of said Lot 6 to the northeast corner of said Lot 6; thence east on the extension of the north line of said Hagedorn's Third Addition to a point which is 300 feet west of the west line of 4th Avenue Southwest, as measured perpendicular thereto; thence north along a line parallel with and 300 feet west of the west line of 4th Avenue Southwest, as measured perpendicular thereto, to the extension of the north line of Golf Course First Addition, Spencer, Iowa; thence east to the point of beginning.

B. Sewer Connection Fee: A sanitary sewer connection fee equal to \$22.0762932 multiplied by the total street frontage, in feet, of the property to be served by a sanitary sewer connection plus the amount of seven hundred seventy six dollars fifty five cents (\$776.55) per each service connection to which a connection is made is hereby established for connection to sanitary sewer in the district.

1. There is hereby approved, and incorporated in this section by reference, the sewer connection fee schedule for the district on file and available for inspection in the office of the city clerk as prepared by Kruse, Cate & Nelson, P.C., the city's consulting engineers, dated November 5, 2001, designated #1566, which includes a schedule of sanitary sewer connection fees, as adopted by this section, for each existing parcel of real estate in the district.

2. The sanitary sewer connection fees herein established are due and payable when a sanitary sewer connection application is filed with the city.

3. The sanitary sewer connection fee herein established is based upon the cost incurred by the city in the construction of the sanitary sewer main and shall not include any interest cost.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the city and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 562, 1-7-2002; Ord. 698, 3-1-2010)

4-4A-5: 35TH AVENUE WEST SANITARY SEWER DISTRICT:

A. District Established: There is hereby established a city of Spencer sanitary sewer district designated as the "35th Avenue West sanitary sewer district", which district includes the following described property:

Lots 3 and 4 of Block 1 and Lot 4 of Block 2, all in Subdivision Number Two of Corn Belt Industrial Park; Lots 3, 4 and 5 of Subdivision Number Four of Corn Belt Industrial Park; and Lot 2 of Subdivision Number Six of Corn Belt Industrial Park, all in the City

of Spencer, Clay County, Iowa.

B. Connection Fee: A sanitary sewer connection fee equal to \$21.128 multiplied by the total street frontage, in feet, of the property to be served by a sanitary sewer connection plus the service connection charge specified in schedule exhibit A attached to ordinance 566 and available for inspection in the office of the city clerk is hereby established for a connection to the sanitary sewer main in the district.

1. There is hereby approved and incorporated in this section by this reference the sewer connection fee schedule for the district as prepared by Kruse, Cate & Nelson, P.C., the city's consulting engineers, dated January 7, 2002, attached to ordinance 566 and available for inspection in the office of the city clerk as exhibit A including a schedule of sanitary sewer connection fees as adopted by this section for each existing parcel of real estate in the district.

2. The sanitary sewer connection fees herein established are based upon the cost incurred by the city in the construction of the sanitary sewer main.

3. Interest at the rate of three percent (3%) per annum from February 4, 2002, to the date of payment shall be added to the connection fee otherwise required to be paid under the provisions of this section.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the city and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 566, 2-4-2002; Ord. 698, 3-1-2010)

4-4A-6: 35TH AVENUE WEST SANITARY SEWER DISTRICT NO. 2:

A. District Established: There is hereby established a city of Spencer sanitary sewer district designated as the "35th Avenue West sanitary sewer district no. 2", which district includes the following described property:

Lots 1 and 2 of Block 1, Subdivision Number Two of Corn Belt Industrial Park; Lot 1 of Block 2, Subdivision Number Two of Corn Belt Industrial Park; and Lots 1 and 2 of Subdivision Number Four of Corn Belt Industrial Park, all in the City of Spencer, Clay County, Iowa.

B. Connection Fee: A sanitary sewer connection fee equal to \$18.13024 multiplied by the total street frontage, in feet, of the property to be served by a sanitary sewer extension, plus the service connection charge specified in the schedule exhibit A, attached to ordinance 580, is hereby established for a connection to the sanitary sewer main in the district.

1. There is hereby approved and incorporated in this section by this reference the sewer connection fee schedule for the district as prepared by Kruse, Cate & Nelson, P.C., the city's consulting engineers, dated January 20, 2003, attached to ordinance 580 as exhibit A, including a schedule of sanitary sewer connection fees as adopted by this section for each existing parcel of real estate in the district.

2. The sanitary sewer connection fees herein established are based upon the costs incurred by the city in the construction of the sanitary sewer main.

3. Interest at the rate of three percent (3%) per annum from March 1, 2003, to the date of payment shall be added to the connection fee otherwise required to be paid under the provisions of this section.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the city and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 580, 2-17-2003; Ord. 698, 3-1-2010)

4-4A-7: 2004 CORN BELT INDUSTRIAL PARK, SUBDIVISION NO. 3, SANITARY SEWER AND WATER EXTENSION DISTRICT:

A. District Established: There is hereby established a city of Spencer sanitary sewer district designated as the "2004 corn belt industrial park, subdivision no. 3, sanitary sewer and water extension district", which district includes the following described property:

Lots 1, 2, 7 and 8, Subdivision Number Three of Corn Belt Industrial Park AND the West Milwaukee Street right-of-way adjacent to said Lots 1, 2, 7 and 8.

B. Connection Fee:

1. A sanitary sewer connection fee equal to \$15.679537 multiplied by the total street frontage, in feet, of the property to be served by a sanitary sewer connection plus a service connection charge of four hundred eighty one dollars forty one cents (\$481.41), all as specified in the connection fee schedule, is hereby established for connection to the sanitary sewer main in the district.

2. A water extension connection fee equal to \$23.490608 multiplied by the total street frontage, in feet, of the property to be served by the water distribution system plus a service connection charge of eight hundred thirteen dollars eighty five cents (\$813.85), all as specified in the connection fee schedule, is hereby established for connection to the water distribution system extension in the district.

3. There is hereby approved and incorporated in this section by this reference the sewer and water distribution system connection fee schedules for the district as prepared by Kruse, Cate & Nelson, P.C., the city's consulting engineers, dated November 20, 2004, attached to ordinance 620 as exhibit A, including a schedule of sanitary sewer connection fees and water distribution system connection fees as adopted by this section for each existing parcel of real estate in the district.

4. The connection fees herein established are based upon the costs incurred by the city in the construction of the sanitary sewer main and water distribution system extension.

5. Interest at the rate of three percent (3%) per annum from March 1, 2005, to the date of payment shall be added to the connection fees otherwise required to be paid under the provisions of this section.

C. Disposition Of Fees: All connection fees collected pursuant to this section shall be paid to the city and shall be used only for the purposes of operating the sanitary sewer system, the water distribution system extension, or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system and the water distribution system extension. (Ord. 620, 3-7-2005; Ord. 698, 3-1-2010)

4-4A-8: DEERFIELD PARK THIRD AND FOURTH ADDITIONS SANITARY SEWER DISTRICT:

A. District Established: There is hereby established a city of Spencer sanitary sewer district designated as the Deerfield Park Third And Fourth Additions sanitary sewer district as legally described on exhibit A attached to the ordinance codified herein and made a part hereof.

B. Connection Fee:

1. There is hereby approved and incorporated in this section by reference, the sewer connection fee schedule for the district as prepared by Kruse, Cate & Nelson, P.C., dated November 2, 2009, designated no. 1842, as amended by the appendix redistributing the connection fees for parcels 6 and 7. The connection fee schedule, as amended by the appendix, includes the schedule of sanitary sewer connection fees for each existing parcel of real estate in the district which includes Deerfield Park Third Addition and Deerfield Park Fourth Addition.

2. The sanitary sewer connection fees herein established are due and payable when a sanitary sewer connection application is filed with the city.

3. The sanitary sewer connection fee herein established is based upon the cost incurred by the city in the construction of the sanitary sewer main and shall not include any interest cost.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the city and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 695, 1-18-2010; Ord. 743, 1-7-2013)

4-4A-9: EAST MILWAUKEE STREET SANITARY SEWER DISTRICT:

A. District Established: There is hereby established a city of Spencer sanitary sewer district designated as the East Milwaukee Street sanitary sewer district as legally described on exhibit A attached to the ordinance codified herein and made a part hereof.

B. Connection Fee: A sanitary sewer connection fee equal to \$18.18174 multiplied by the total street frontage, in feet, of the property to be served by a sanitary sewer connection plus the amount of two hundred eighty eight dollars six cents (\$288.06) per each service connection to an existing four inch (4") service or five hundred twenty two dollars thirty three cents (\$522.33) for a six inch (6") service to the property line is hereby established for connection to sanitary sewer in the district.

1. There is hereby approved, and incorporated in this section by reference, the sewer connection fee schedule for the district as prepared by Kruse, Cate & Nelson, P.C., the City's consulting engineers, dated November 9, 2010, designated #1843SCF, which includes a schedule of sanitary sewer connection fees, as adopted by this section, for each existing parcel of real estate in the district.

2. The sanitary sewer connection fees herein established are due and payable when a sanitary sewer connection application is filed with the City.

3. The sanitary sewer connection fee herein established is based upon the cost incurred by the City in the construction of the sanitary sewer main and shall not include any interest cost.

C. Disposition Of Fees: The sanitary sewer connection fees collected pursuant to this section shall be paid to the City and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 715, 1-17-2011)

4-4A-10: 18TH AVENUE WEST SANITARY SEWER DISTRICT:

A. District Established: There is hereby established a City of Spencer sanitary sewer district designated as the "18th Avenue West Sanitary Sewer District" as legally described on Exhibit A attached to the ordinance codified herein and made a part hereof. (See on file at City Hall.)

B. Connection Fee:

1. There is hereby approved, and incorporated in this section by reference, the sewer connection fee schedule for the district as prepared by Kruse, Cate & Nelson, P.C., the City's consulting engineers, dated January 18, 2013, designated #1894, which includes a schedule of sanitary sewer connection fees, as adopted by this section, for each existing and future parcel of real estate in the district, attached as Exhibit B to the ordinance codified herein. (See on file at City Hall.)

2. The sanitary sewer connection fees herein established are due and payable when a sanitary sewer connection application is filed with the City.

3. The sanitary sewer connection fee herein established is based upon the cost incurred by the City in the construction of the sanitary sewer main and shall not include any interest cost.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the City and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 746, 4-1-2013)

4-4A-11: MENARD'S SANITARY SEWER DISTRICT:

A. District Established: There is hereby established a City of Spencer sanitary sewer district designated as the "Menard's Sanitary Sewer District" which includes that property which lies within three hundred twenty five feet (325') of the sanitary sewer main. The district is illustrated in Exhibit A on file in the City.

B. Connection Fee:

1. The minimum fee for a sanitary sewer service line connection to the sewer main serving the Menard's Sanitary Sewer District is the amount of two thousand five hundred dollars (\$2,500.00).
2. The amount of the sanitary sewer service line connection fee to the sewer main serving the Menard's Sanitary Sewer District shall be sixteen dollars forty cents (\$16.40) per foot of property which lies adjacent to the sanitary sewer main, but not less than two thousand five hundred dollars (\$2,500.00).
3. For corner lots served by a sanitary sewer connection in the district, only the fee for the greatest frontage dimension or the minimum fee, whichever is greater, shall be required.
4. The sanitary sewer connection fee herein established is due and payable when a sanitary sewer connection application is filed with the City.
5. The sanitary sewer connection fee herein established is based upon current construction costs on an eight inch (8") sanitary sewer main and does not include any interest cost.

C. Disposition Of Fees: All sanitary sewer connection fees collected pursuant to this section shall be paid to the City Treasurer and shall be used only for the purposes of operating the sanitary sewer system or to pay debt service on obligations issued to finance improvements or extensions to the sanitary sewer system. (Ord. 822, 10-2-2017)

ARTICLE B. STORMWATER DRAINAGE SYSTEM DISTRICT

SECTION:

4-4B-1: Stormwater Drainage System District Created

4-4B-2: Definitions

4-4B-3: Rates Established

4-4B-4: Finance Charges

4-4B-5: Collection Of Unpaid Storm Sewer Utility Charges

4-4B-6: Use Of Funds

4-4B-7: Exhibits

4-4B-1: STORMWATER DRAINAGE SYSTEM DISTRICT CREATED:

There is hereby created a city stormwater drainage system district as described in section 4-4B-7 of this article which includes the description of the boundaries of part A and part B of the district and pictorial representations. Said district shall be known as "stormwater drainage system district #1 of the city of Spencer". (Ord. 744, 2-18-2013)

4-4B-2: DEFINITIONS:

For purposes of this article, the following terms are defined:

DISTRICT: Stormwater drainage system district #1 of the city of Spencer.

OCCUPANT: The person or persons residing in a property unit or the person or persons using a nonresidential unit. In a family or household situation, the occupant responsible for the obligations imposed under this article shall be the adult heads of the household, jointly and severally.

OWNER: The legal owner(s) of record, as shown on the tax rolls of Clay County; or where there is a recorded real estate contract, the vendee.

PROPERTY UNIT: Any building or portion thereof which is designed and used as an independent unit. The term shall include each unit of a duplex structure, each apartment of a multi-family structure, each townhouse of a townhouse group, each condominium unit of a horizontal property regime, and a mobile home.

SERVICE UNIT: An area of ten thousand (10,000) square feet.

USER: Any person who uses property within the district. The occupant of occupied property is deemed the user. If the property is not occupied, the owner shall be deemed the user. (Ord. 492, 3-16-1998)

4-4B-3: RATES ESTABLISHED:

A. Monthly Charge: There is hereby imposed upon each user of a property unit in the district a monthly charge of eight dollars sixty two cents (\$8.62) per service unit as a stormwater utility charge.

B. Billing Procedures: The charge shall be imposed and billed upon initial occupancy or use of a property unit in accordance with the billing procedures adopted by the city clerk and/or Spencer municipal utilities and will be billed continuously thereafter.

C. Charge Included On Utility Bills: By agreement with Spencer municipal utilities, the monthly stormwater utility charge may be included on monthly utility bills.

D. Minimum Charge: The minimum monthly stormwater utility charge per property unit shall be five dollars (\$5.00) per month.

E. Rate Formula; Examples:

1. The formula for computing the monthly stormwater utility charge imposed by this article shall be:

$$A \div 10,000 \times 8.62 \div N = \text{monthly unit charge}$$

Where A is the area of the lot, and N is the number of units on the lot.

2. If a single-family dwelling occupies a lot of an area of eight thousand five hundred (8,500) square feet, application of the formula results in a monthly stormwater utility charge of seven dollars thirty three cents (\$7.33) per month.

$$8,500 \div 10,000 \times 8.62 \div 1 = \$7.327$$

3. If a property unit occupies a lot with an area of twelve thousand four hundred (12,400) square feet, application of the formula results in a monthly stormwater utility charge of ten dollars sixty nine cents (\$10.69) per month.

$$12,400 \div 10,000 \times 8.62 \div 1 = \$10.688$$

4. If three (3) property units occupy a lot of an area of twenty one thousand (21,000) square feet, application of the formula results in a monthly stormwater utility charge per unit of six dollars three cents (\$6.03) per month.

$$21,000 \div 10,000 \times 8.62 \div 3 = \$6.034$$

(Ord. 492, 3-16-1998)

4-4B-4: FINANCE CHARGES:

A. There shall be a finance charge of one and one-half percent ($1\frac{1}{2}\%$) per month imposed on any stormwater utility charge made by the city which is not paid by the due date.

B. For purposes of computing the finance charge, the "due date" shall be the date twenty (20) days following the date of the statement. If a statement is paid within twenty (20) days of the date of issuance, no finance charge shall be imposed. If a statement is not so paid, the finance charge authorized by this section shall be imposed and paid.

C. All stormwater utility statements issued by the city shall include the following notice:

A finance charge equal to $1\frac{1}{2}\%$ per month shall be imposed if payment is not made by the due date.

(Ord. 492, 3-16-1998)

4-4B-5: COLLECTION OF UNPAID STORM SEWER UTILITY CHARGES:

A. Storm sewer utility charges shall be delinquent when a charge has been unpaid for a period of two (2) months following the billing date.

B. Delinquent stormwater utility charges are a lien against the property served. When charges become delinquent, the city may certify the delinquent charges to the Clay County treasurer to be collected in the same manner as real property taxes, pursuant to the provisions of section 384.84 of the Iowa Code.

C. A lien for stormwater utility charges shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the user. If the user is a tenant, and if the tenant has made a written request for notice, the notice shall also be given to the owner. The notice shall be sent to the appropriate persons by ordinary mail not less than ten (10) days prior to certificate of the lien to the county treasurer.

D. An administrative fee of five dollars (\$5.00) shall be added to the delinquent account certified to the county treasurer for collection.

E. In addition to the foregoing collection procedures, as authorized under section 384.84 of the Iowa Code, the city shall also have and reserve the right to collect unpaid stormwater utility charges by filing an action for collection in the Clay County small claims court. (Ord. 492, 3-16-1998)

4-4B-6: USE OF FUNDS:

The funds paid and collected pursuant to section 4-4B-3 of this article shall be held by the city in a special fund to be expended only for the purpose of constructing, operating, repairing and maintaining all kinds of conduits, drains, stormwater detention devices, flow impediments, ponds, ditches, drainageways, erosion control devices, and appurtenances within the district; or to replenish funds expended by the city that have been expended for the construction of such improvements to serve the district; or to repay the outstanding loan from Spencer municipal utilities to the city which partially financed stormwater utility improvements constructed by the city to serve the district. (Ord. 492, 3-16-1998)

4-4B-7: EXHIBITS:

STORM SEWER UTILITY BOUNDARY DESCRIPTION OF PART A:

A parcel of land in the West Half of Section 12, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, described as follows to wit: Beginning at the northeast corner of Lot 1, Block 1, Hallett's First Country Club Addition and running from this point of beginning easterly along the southerly right-of-way line of West 18th Street to the northwest corner of Hansen's First Addition; thence southerly along the westerly line of Hansen's First Addition to the southwest corner of Hansen's First Addition; thence east along the south line of Hansen's First Addition to the west line of Lot 8-B, Subdivision of Lot "B" Hallett's 4th "Y" Addition; thence southwesterly along the westerly line of Lot 8-B to the northwest corner of Lot 18, Hallett's 4th "Y" Addition; thence southerly along the westerly line of Lots 18, 19, 20 and 21, Hallett's 4th "Y" Addition to the east corner of Lot 10, Deerfield Park 4th Addition; thence southwesterly to the south corner of said Lot 10; thence southwesterly to the east corner of Lot 17, Deerfield Park 4th Addition; thence southwesterly to the south corner of said Lot 17; thence southeasterly to the south corner of Lot 22, Hallett's 5th "Y" Addition; thence southwesterly along the extension of the southeasterly line of Lot 22 a distance of 120 feet; thence

southwesterly to the northwest corner of Lot 42, Hallett's 5th "Y" Addition; thence southerly along the westerly line of Lots 42, 43, 44, 45, 46 and 47 of Hallett's 5th "Y" Addition to a point 10 feet north of the northeast corner of Lot 18, Hallett's 6th "Y" Addition; thence westerly parallel with the northerly line of Lot 18, to the intersection of an extension of the westerly line of Lot 18; thence southerly along the extension of the westerly line of Lot 18 to the northwest corner of Lot 18; thence westerly to the northwest corner of Lot 17, Hallett's 6th "Y" Addition; thence southerly along the westerly line of Lots 17, 16, 15, 14, and 13, Hallett's 6th "Y" Addition to the southwest corner of Lot 13, Hallett's 6th "Y" Addition; thence southerly to the northwest corner of Lot 12, Hallett's 6th "Y" Addition; thence southerly along the westerly line of Lot 12 to the southwest corner of Lot 12; thence easterly along the southerly line of Lot 12 to the northeast corner of Lot 22, Westshire 7th Addition; thence southerly along the easterly line of Lots 22, 21 and 20, Westshire 7th Addition to the southeast corner of Lot 20; thence westerly along the southerly line of Lot 20 to the northwest corner of Lot 3, Westshire 6th Addition; thence southerly along the westerly line of Westshire 6th Addition to the southwest corner of Lot 6, Westshire 6th Addition; thence northwesterly along the northerly right-of-way line of the I&M Rail Link to the west line of the Southwest Quarter of Section 12, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa; thence northerly along the west line of the Southwest Quarter of Section 12 to the northwest corner of the Southwest Quarter of said Section 12; thence east along the north line of the Southwest Quarter of said Section 12 to the extension of the easterly line of Hallett's First Country Club Addition; thence northerly along the easterly line of Hallett's First Country Club Addition to the point of beginning.

STORM WATER DRAINAGE SYSTEM DISTRICT #1 OF THE CITY OF SPENCER

PREPARED BY:

KRUSE, CATE & NELSON, P.C.

SPENCER, IOWA

MARCH 10, 1998

(REVISED February 18, 2013)

DRAWING NO. 1439-X5

STORM SEWER UTILITY BOUNDARY DESCRIPTION OF PART B:

A parcel of land in the Southeast Quarter of Section 11, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, described as follows to wit: Beginning at the intersection of the east line of the Southeast Quarter of Section 11, Township 96 North, Range 37 West of the Fifth Principal Meridian, Clay County, Iowa, and the southerly right-of-way line of the I&M Rail Link and running from this point of beginning south along the east line of the Southeast Quarter of Section 11 to the extension of the northerly line of Eckert's First Addition; thence westerly along the northerly line of Eckert's First Addition, and the extension thereof, to the easterly right-of-way line of Country Club Drive; thence northerly along the easterly right-of-way line of Country Club Drive to the southerly right-of-way line of the I&M Rail Link; thence easterly along the southerly right-of-way line of the I&M Rail Link to the point of beginning.

STORM WATER DRAINAGE SYSTEM DISTRICT #1 OF THE CITY OF SPENCER

PREPARED BY:

KRUSE, CATE & NELSON, P.C.

SPENCER, IOWA

MARCH 10, 1998

DRAWING NO. 1439-X5

(Ord. 744, 2-18-2013)

CHAPTER 5

SOLID WASTE

SECTION:

4-5-1: Purpose And Goals

4-5-2: Integration With State Statutes And Administrative Rules

4-5-3: Definitions

4-5-4: Sanitary District Established (Rep. by Ord. 752, 6-3-2013)

4-5-5: City Enterprise

4-5-6: Storage, Collection And Disposal Of Solid Waste

4-5-6A: Storage And Collection Of Residential Solid Waste And Recyclable Material

4-5-7: Storage, Collection And Removal Of Commercial Solid Waste

4-5-8: Recycling

4-5-9: Hazardous Accumulations

4-5-10: Unlawful Depositing Or Disposal Of Solid Waste And Yard Waste

4-5-11: Yard Waste

4-5-12: Hazardous And Prohibited Materials

4-5-13: Transportation Equipment

4-5-14: Solid Waste Collection

4-5-15: Unusual Waste

4-5-16: Extra Fee Waste Removal

4-5-17: Residential Collection Charges

4-5-17A: Late Payment Penalty

4-5-18: Nonresidential Collection Charges

4-5-19: Collection Of Unpaid Solid Waste Charges

4-5-20: Exempt Or Reduced Charge Collections

4-5-21: Rates And Charges

4-5-22: Transfer Station

4-5-23: Collection Rate Review Board

4-5-1: PURPOSE AND GOALS:

The purpose of this chapter is to provide for the storage, collection, handling and disposal of waste materials generated in the City; to establish regulations concerning waste which are consistent with and in compliance with State and Federal requirements; and to protect the community from such hazards to health, safety and welfare as might otherwise result from the storage, collection, handling and disposal of solid waste. The City's waste goals are:

- A. To reduce, to the extent reasonably possible, the volume of solid waste;
- B. To encourage, promote and accomplish recycling of materials that would otherwise become solid waste;
- C. To maintain and operate a system of solid waste and recyclables collection and disposal, which is efficient, practical and cost effective;
- D. To prevent the accumulation or improper disposal of waste materials;
- E. To prevent littering; and
- F. To maintain a clean and attractive community. (Ord. 399, 3-18-1991, eff. 4-1-1991; Ord. 521, 11-16-1999, eff. 1-1-2000)

4-5-2: INTEGRATION WITH STATE STATUTES AND ADMINISTRATIVE RULES:

It is the intent of the City Council, in adopting this chapter, to comply with all applicable State Statutes and administrative rules and regulations which now exist or may hereafter be created and the provisions of this chapter shall be so interpreted.

In the event that any provision of this chapter is found to be irreconcilable with any provision of Iowa law or validly enacted Iowa administrative rules and regulations, the State Statutes and rules shall control. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-3: DEFINITIONS:

A. Administrative Rules: Terms used in this chapter which are defined in section 567-100.2 of the Administrative Rules of the Iowa Environmental Protection Commission shall be defined as provided in that section, which is hereby adopted by reference.

B. Terms Adopted: Terms used in this chapter which are defined in section 455B.301 of the Iowa Code shall have the definitions provided in that section, which are hereby adopted by reference.

C. Iowa Code: Terms used in this chapter which are defined in section 455B.411 of the Iowa Code shall be defined as provided in that section, which is hereby adopted by reference.

D. Owner: The term "owner" shall mean the record titleholder; any person residing in, renting, leasing, occupying, operating or transacting business in any premises; and, as between such parties, the duties, responsibilities, liabilities and obligations herein imposed shall be joint and several.

E. Person: The term "person" shall mean any individual, firm, partnership, domestic or foreign corporation, company, association, trust or other legal entity and includes a trustee, a receiver, assignee or representative thereof, but does not include a governmental body. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-4: SANITARY DISTRICT ESTABLISHED:

(Rep. by Ord. 752, 6-3-2013)

4-5-5: CITY ENTERPRISE:

The regulation, handling, collection, transportation and disposal of solid waste and residential recyclable material is hereby declared to be a City enterprise under the authority, control and direction of the City Council. No person shall collect or transport solid waste or

residential recyclable material within the City for compensation, except as specifically provided in this chapter. Collection and transportation of solid waste and residential recyclable material within the City is deemed to be a matter of such importance to the public health, safety and welfare and is found to be subject to State of Iowa requirements such that solid waste and residential recyclable material collection, transportation and disposal shall be conducted by the City exclusively.

Notwithstanding the foregoing provisions, persons other than the City may collect the following solid waste in the City:

- A. Tires.
- B. Hazardous substances, used oils and solvents.
- C. Yard waste.
- D. Appliances and electronic equipment.
- E. Other materials generated from commercial activities collected for the purpose of recycling or reuse and not for disposal at a sanitary landfill.
- F. Material transported to a central collection point by the generator of the material. (Ord. 752, 6-3-2013)

4-5-6: STORAGE, COLLECTION AND DISPOSAL OF SOLID WASTE:

At every location in the city where solid waste is produced, the owner shall, in accordance with the requirements of this chapter, store and provide for the collection and disposal of solid waste. (Ord. 752, 6-3-2013)

4-5-6A: STORAGE AND COLLECTION OF RESIDENTIAL SOLID WASTE AND RECYCLABLE MATERIAL:

A. Solid Waste And Recycling Receptacles: Residential solid waste and recycling material shall be stored in and set out for collection in receptacles owned by the city and issued to residential solid waste and recyclable material generators. A solid waste receptacle (64 gallon capacity) and a separate recyclable material receptacle (95 gallon capacity) will be issued to each residence for which a residential solid waste collection fee is charged. These receptacles shall remain the property of the city and shall be maintained by the city. Each such receptacle bears a number and is assigned to a specific address. The receptacles are to remain at the address when occupancy changes. If receptacles are damaged or lost through the neglect or misuse of the property owner/user, the receptacle shall be repaired or replaced at the expense of the property owner/user. Only receptacles issued by the city shall be used for solid waste or recyclable material to be collected by the city.

B. Residential Storage And Collection: At each site for which a residential solid waste collection fee is paid pursuant to section 4-5-21 of this chapter, a city issued solid waste container, not exceeding one hundred fifty (150) pounds in weight, may be placed at the curb for collection each week.

C. Placement Of Solid Waste Receptacles:

1. No solid waste or recycling containers shall be kept, stored or maintained on a portion of a residential lot bounded by the front lot line, the side lot lines and the front wall of the building line as extended to the side lot lines, except:

- a. A temporarily placed solid waste container for the collection of construction waste when a building permit has been issued for the location.
- b. Solid waste containers may be placed in an enclosure which screens the container from view at a location which has been approved by the city and for which a permit has been issued by the city.
- c. Residential solid waste and recycling containers may be placed at the curb, but not more than twelve (12) hours before the scheduled time of collection and shall be removed from the curb area within eight (8) hours after collection. Receptacles shall be placed with the opening facing the street and within two feet (2') of the curb or traveled way and no closer than five feet (5') from a mailbox or similar structure. If two (2) receptacles are placed, they shall be at least twelve inches (12") apart. Collection shall be made only from the adjacent street. Collection shall be made by the city once each week, unless collection is precluded by weather conditions or a legal holiday.
- d. If no occupant of a premises, due to physical disability or other hardship, is able to place solid waste or recycling containers at the street for collection, such occupant may make application to the city manager for solid waste and recyclable material to be collected from another point. The city may request a statement from a licensed physician stating that a permanent disability or hardship prohibits the owner/user from placing the containers at the street.

D. Residential Collection Charges: For the purpose of paying the cost of solid waste collection as provided herein, there shall be a charge to each residential living unit within the city (except those units in a single structure which include more than 12 such units) a monthly solid waste collection fee as provided in section 4-5-21 of this chapter.

By agreement with Spencer municipal utilities, such monthly solid waste collection fee may be included on residential monthly utility bills issued by Spencer municipal utilities.

E. Unusual Waste: Collection of unusual solid waste from residences of such items as furniture, appliances, carpeting or other objects or materials which cannot be placed in customary solid waste containers will be accomplished by the city in a manner agreed to between the owner and the city. To make arrangements for the collection of such unusual waste, the owner shall phone or contact the city and arrange for the time and place of removal at least twenty four (24) hours in advance of the desired removal time.

F. Excess Residential Solid Waste: Residential solid waste in excess of one receptacle per week shall be collected and disposed of only if there is paid an additional monthly fee, as provided in the schedule of rates and charges incorporated in section 4-5-21 of this chapter. (Ord. 752, 6-3-2013)

4-5-7: STORAGE, COLLECTION AND REMOVAL OF COMMERCIAL SOLID WASTE:

A. Mandatory Commercial Storage And Collection: The owner or operator of a business conducted at a site or location in the city

of Spencer, unless exempted as provided below, shall pay a minimum monthly solid waste collection fee equal to the rate for two (2) bags collected once per week as set out in section 4-5-21 of this chapter. In consideration of the payment of this monthly charge, each such business owner or operator may place two (2) bags not exceeding fifty (50) pounds each or one 64-U.S. gallon capacity city issued and owned container, not exceeding one hundred fifty (150) pounds in weight for collection week.

The following activities are exempt from the minimum solid waste collection fee:

1. Home occupations lawfully conducted in a residence for which a residential solid waste collection fee is paid.
2. Farmland located within the corporate limits of the city.
3. Seasonal businesses that operate less than thirty (30) days in a calendar year.
4. Those businesses, not otherwise exempt, which establish, to the satisfaction of the city public works director, that no solid waste is generated at the site of the business. Such businesses shall be issued a letter of exemption by the public works director or his designee.

B. Commercial Solid Waste: Commercial solid waste shall include all solid waste generated by enterprises or activities other than residential living units. A single structure which contains more than twelve (12) separate living units shall be treated as a commercial enterprise or as individual rental units, at the owner's option. If commercial, the property shall be subject to the provisions of this chapter concerning commercial collection.

Solid waste generated from commercial activities shall be collected by the city at such times and places as shall be agreed to between the owner and the city, but in a manner which will prevent unsafe accumulations of solid waste.

C. Commercial Collection Charges: Rates and charges for commercial collection shall be as specified in section 4-5-21 of this chapter. These charges shall be billed monthly, or at other regular intervals by the city, and shall be paid at city hall. Commercial collections charges will be billed to the Spencer address of the business or facility to which the service was provided. (Ord. 752, 6-3-2013)

4-5-8: RECYCLING:

The city of Spencer encourages the recycling of waste materials and has implemented and operates a program for the collection and recycling of recyclable materials. Recyclable materials produced from Spencer residences shall be collected without fee or charge pursuant to the provisions of subsection B of this section. Recyclable cardboard shall be collected from commercial enterprises that choose to participate in the city's commercial cardboard recycling program, as provided in subsection A of this section.

A. Commercial Cardboard Recycling: Each commercial enterprise in the city of Spencer that desires to participate in the city's commercial cardboard recycling program shall so advise the city. The city will provide such commercial solid waste customers a separate, clearly identified cardboard recycling container. The commercial customer shall place only clean, uncontaminated cardboard in this separate container. The city will periodically collect, as reasonably necessary, the cardboard material. All material placed in the city's container for collection shall become the property of the city.

B. Residential Recyclable Material:

1. Collection shall be made by the city, on a schedule determined by the public works department.
2. Collection shall be made from the adjacent street.
3. Residentially generated recyclable material shall be placed only in containers approved and distributed by the city.
4. Only residential recyclable material specified in rules adopted by the public works department shall be placed in residential recyclable containers.
5. All recyclable material placed in the city's container for collection shall become the property of the city.

C. Other Means Of Recycling: No provision of this chapter is intended to prohibit, restrict or discourage the recycling of waste material by means other than placing recyclable material in approved containers for collection by the city. All residents and operators of commercial and industrial facilities are encouraged to consider and accomplish recycling of waste material by other lawful means. (Ord. 752, 6-3-2013)

4-5-9: HAZARDOUS ACCUMULATIONS:

It shall be unlawful for any person to permit to accumulate on any premises, or on any public place, such quantities of solid waste as to constitute a health or safety hazard. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-10: UNLAWFUL DEPOSITING OR DISPOSAL OF SOLID WASTE AND YARD WASTE:

A. No person shall place or deposit any solid waste or yard waste upon any public property, except for the purposes of collection and disposal as hereinafter provided and permitted, nor place nor deposit any solid waste on any private property, except with the express permission of the property owner.

B. No person shall place or deposit, or cause to be placed or deposited, in any public storm sewer, stormwater drainage ditch, waterway, river or other drainageway, any material of any form, type or nature, the placement of which would alter, impede, block or otherwise detrimentally affect or restrict the flow of water.

C. No person shall place or deposit yard waste at any yard waste disposal site established, maintained or controlled by the city unless the yard waste originated from property within the city or within the boundaries of any city or county which has entered into a contract with the city for the disposal of yard waste.

D. No person shall place or deposit solid waste in any solid waste receptacle or container, except such receptacle or container which is owned or controlled by the person or designated by the city for their use.

E. No person shall place or deposit solid waste at any solid waste disposal site established or controlled by the city unless:

1. For residential solid waste:

a. The person is a resident of the city or of a city or county which has entered into a contract with the city for solid waste disposal; and

b. The solid waste has been generated within the corporate limits of the city or within the corporate limits of any city or county which has contracted with the city for solid waste disposal.

2. For commercial solid waste:

a. The person or business entity pays to the city the established charge for commercial solid waste disposal; and

b. The solid waste has been generated within the corporate limits of the city or within the corporate limits of any city or county which has contracted with the city for solid waste disposal.

F. Violation of any provision of this section shall be a simple misdemeanor. The fine for a first violation of any provision of this section by a person during a twelve (12) month period shall not be less than fifty dollars (\$50.00), and the fine for a second violation of any provision of this section by the same individual in a twelve (12) month period shall be one hundred dollars (\$100.00). (Ord. 399, 3-18-1991, eff. 4-1-1991; Ord. 445, 6-7-1993; Ord. 472, 8-19-1996)

4-5-11: YARD WASTE:

A. Definition: "Yard waste" means debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

B. Disposal: Yard waste may be disposed of in any manner permitted under this code and the laws of the state. Such methods may include incineration, composting or collection, transportation and disposal by private commercial enterprises or by the city in the manner hereinafter provided.

C. Mix With Solid Waste: No yard waste shall be intermingled with solid waste. No yard waste shall be disposed of at any sanitary landfill.

D. Disposal Sites: Yard waste may be delivered to a site designated by the city for the deposit of yard waste, brush and tree limbs. All bags shall be removed after depositing any yard waste at the designated site. Alternatively, yard waste, brush or tree limbs tagged for curbside pick up shall be placed in plastic bags, except that brush or tree limbs too large to be placed in bags shall be tied in bundles not exceeding four feet (4') in length or fifty (50) pounds in weight.

A fee for collection for yard waste shall be imposed as provided in section 4-5-21 of this chapter.

E. Compost: Composting yard waste shall not create a nuisance. Compost shall not be placed closer than six feet (6') to the property line. (Ord. 399, 3-18-1991, eff. 4-1-1991; Ord. 752, 6-3-2013)

4-5-12: HAZARDOUS AND PROHIBITED MATERIALS:

No person shall deposit in a solid waste container or otherwise offer for collection any hazardous materials, used oil, solvents or lead acid batteries. Such materials shall be transported and disposed of by the owner or his agent in a safe manner and in accordance with this code and the laws of the state. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-13: TRANSPORTATION EQUIPMENT:

All solid waste shall be transported in and from the city only in vehicles which are watertight and otherwise so constructed so as to prevent spilling or draining of solid waste from such vehicle during transit. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-14: SOLID WASTE COLLECTION:

A. Commercial Solid Waste: Commercial solid waste shall include all solid waste generated by enterprises or activities other than residential living units. A single structure which contains more than twelve (12) separate living units shall be treated as a commercial enterprise or as individual rental units, at the owner's option. If commercial, the property shall be subject to the provisions of this chapter concerning commercial collection.

Solid waste generated from commercial activities shall be stored as above provided and shall be collected by the city at such times and places as shall be agreed to between the owner and the city but in a manner which will prevent unsafe accumulations of solid waste.

B. Residential Collection:

1. Residential solid waste shall be placed for collection within three feet (3') of the adjacent street or alley.

2. Collection shall be made by the city once each week, unless collection is precluded by weather conditions or a legal holiday.

3. Collection shall be made from the adjacent street or alley.

4. If an owner, due to physical disability or other hardship, is unable to place solid waste at the street or alley for collection, such owner may make application to the city manager for solid waste to be collected from another point.

5. Normal residential waste shall be that amount which can be placed in two (2) solid waste receptacles as defined in section 4-5-6A of this chapter, per week. Additional volume of residential solid waste shall be collected and disposed of only as provided under section 4-5-16 of this chapter. (Ord. 399, 3-18-1991, eff. 4-1-1991; Ord. 521, 11-16-1999, eff. 1-1-2000)

4-5-15: UNUSUAL WASTE:

Collection of unusual solid waste from residences of such items as furniture, appliances, carpeting and other objects or materials which cannot be placed in customary solid waste containers will be accomplished by the city in a manner agreed to between the

owner and the city. To make arrangements for the collection of such unusual waste, the owner shall phone or contact the city and arrange for the time and place of removal at least twenty four (24) hours in advance of the desired removal time. The City shall designate one day in each week upon which unusual waste shall normally be collected. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-16: EXTRA FEE WASTE REMOVAL:

A. Tires: Rubber tires which have become solid waste shall be collected and disposed of by the City for a special fee as below provided.

B. Yard Waste: Yard waste shall also be collected by the City for a special fee as below provided. Such yard waste shall be placed either in clear, heavy duty plastic bags designed for such storage or in permanent containers which can be lifted by one person. Branches shall be tied in bundles not exceeding four feet (4') in length and two feet (2') in diameter. Such materials may be placed on the parking area in residential areas for pick up not more than twelve (12) hours before the normal time of collection.

C. White Goods And Appliances: A separate charge shall be imposed for the disposal of the following appliances (sometimes referred to as "white goods"): ovens, stoves, ranges, clothes washers, clothes dryers, air conditioners, furnaces, ice machines, dehumidifiers, hot water heaters, freezers and refrigerators.

A charge shall be collected for all such "white goods" delivered to the transfer station, as provided in the schedule of rates and charges incorporated in section 4-5-21 of this chapter.

Such "white goods" shall be collected from residences, if there is attached to the item to be collected adhesive tags indicating payment of the disposal charge specified in the schedule incorporated in section 4-5-21 of this chapter.

D. Tag System: Citizens shall pay the required fees provided under this section by purchasing adhesive "tags", which shall be made available by the City for purchase at outlets in the community in denominations of seventy five cents (\$0.75) per adhesive tag.

Adhesive tags equal in amount to the required fee shall be affixed to the tires or yard waste in a clearly visible location when the waste is placed at the curb or alley for collection. Such items to which there is not attached clearly visible tags indicating payment of the required fee will not be collected.

E. Other Extra Charge Items: Extra charges will be made for other items delivered to the transfer station or collected as specified in the schedule of rates and charges as incorporated in section 4-5-21 of this chapter. (Ord. 399, 3-18-1991, eff. 4-1-1991; Ord. 456, 8-15-1994; Ord. 499, 8-3-1998, eff. 1-1-1999; Ord. 521, 11-16-1999, eff. 1-1-2000; Ord. 645, 6-19-2006, eff. 7-1-2006; Ord. 752, 6-3-2013)

4-5-17: RESIDENTIAL COLLECTION CHARGES:

For the purpose of paying the costs of solid waste collection as provided herein, there shall be a charge to each residential living unit within the City (except those units in a single structure which include more than 12 such units) a monthly solid waste collection charge as provided in section 4-5-21 of this chapter.

By agreement with Spencer Municipal Utilities, such monthly solid waste collection charge as specified in section 4-5-21 of this chapter may be included on residential monthly utility bills issued by Spencer Municipal Utilities. (Ord. 399, 3-18-1991, eff. 4-1-1991; Ord. 416, 6-1-1992, eff. 7-1-1992; Ord. 638, 11-7-2005; Ord. 737, 5-7-2012, eff. 7-1-2012)

4-5-17A: LATE PAYMENT PENALTY:

A. There shall be imposed on any solid waste charge made by the City which is not paid by the due date a late payment penalty of one and one-half percent (1.5%) per month of the delinquent amount for each delinquent invoice.

1. Residential Charges: For purposes of computing the late payment penalty, the "due date" shall be the date twenty (20) days following the date of the statement. If a statement is paid within twenty (20) days of the date of issuance, no late payment penalty shall be collected. If a statement is not so paid, a late payment penalty as authorized by this section shall be imposed and paid.

2. Commercial Charges: Statements for commercial solid waste charges shall be issued by the fifth day of each month and are due on the twenty fifth day of the month. If a statement is paid on or before the twenty fifth day of the month, no late payment penalty shall be collected. If a statement is not so paid, a late payment penalty authorized by this section shall be imposed and paid.

3. Statements: All solid waste statements issued by the City shall include the following notice: *A Late Payment Penalty of \$10.00 per billing cycle shall be imposed if payment is not made by the due date.* (Ord. 815, 6-5-2017, eff. 7-1-2017; Ord. 849, 8-19-2019)

4-5-18: NONRESIDENTIAL COLLECTION CHARGES:

Rates and charges for nonresidential collection shall be as specified below. These charges shall be billed monthly or at other regular intervals by the City and shall be paid at City Hall. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-19: COLLECTION OF UNPAID SOLID WASTE CHARGES:

A. Comprehensive solid waste user charges shall be delinquent when a charge has been unpaid for a period of two (2) months following the billing date.

B. Delinquent solid waste charges are a lien against the property served. When charges become delinquent, the City may terminate service to the property and/or may certify the delinquent charges to the Clay County Treasurer to be collected in the same manner as Real Property Taxes, all pursuant to the provisions of section 384.84 of the Code of Iowa.

C. Termination of solid waste collection service to a property or certification of delinquent solid waste collection charges to the County Treasurer shall not be accomplished until ten (10) days after a written notice is sent by ordinary mail by the City to the account holder, which notice shall include the amount of the delinquent charges and shall notify the account holder that, if the charges are not paid in full, service will be terminated and/or that the amount of the delinquent charges will be certified to the County Treasurer for collection. The notice shall further notify the account holder that a hearing may be requested before the City Manager prior to the discontinuance of service.

If the account holder is a tenant and if the owner or landlord of the property has made a written request for notice to the City, the notice shall also be given to the owner or landlord.

D. If the account holder, owner or landlord requests a hearing before the City Manager, the City Manager shall promptly schedule and hold a hearing and determine if termination of service is justified. The City Manager shall promptly notify the interested parties of his decision.

E. An administrative fee of twenty dollars (\$20.00) shall be added to delinquent accounts certified to the County Treasurer for collection.

F. In addition to the foregoing solid waste charge collection procedures as authorized under section 384.84 of the Iowa Code, the City shall also have and reserves the right to collect unpaid solid waste collection charges by filing an action for collection in the Clay County Small Claims Court. (Ord. 399, 3-18-1991, eff. 4-1-1991; Ord. 459, 9-19-1994; Ord. 752, 6-3-2013)

4-5-20: EXEMPT OR REDUCED CHARGE COLLECTIONS:

The City Manager, or his designee, is hereby authorized by the City Council to authorize collection of solid waste from community or nonprofit organization activities at a reduced charge or for no charge. Such activities may include, for example and without limitation, the Clay County Fair, Flagfest and nonprofit organization special events or activities. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-21: RATES AND CHARGES:

SOLID WASTE RATES

(For Service July 1, 2020 - June 30, 2021)

Monthly Scheduled Commercial Rates					
Service (M-F)	1 Yd. Container	2 Yd. Container	4 Yd. Container	6 Yd. Container	8 Yd. Container
1 day/wk per mo.	\$45.50	\$75.75	\$104.25	\$123.50	\$161.75
2 day/wk per mo.	\$85.50	\$142.74	\$243.25	\$320.00	\$323.50
3 day/wk per mo.	\$118.75	\$200.20	\$265.00	\$352.00	\$485.00
4 day/wk per mo.	\$161.75	\$266.00	\$351.00	\$466.25	\$647.50
5 day/wk per mo.	\$200.25	\$332.75	\$438.75	\$580.00	\$809.00

** Saturday surcharge Rate - \$28.75 per container dumped.

Monthly Scheduled Commercial Area - Bag Pick Up (M-F)	
1 day/wk per mo.	\$25.50
2 day/wk per mo.	\$34.00
3 day/wk per mo.	\$40.00

Unscheduled Commercial Dumping Charges (Per Dump, Per Container)		
	Gen. Solid Waste	Shingles
1 yd. container	\$19.00	-
2 yd. container	\$28.50	\$75.50
4 yd. container	\$56.75	\$151.50
6 yd. container	\$85.00	\$227.25
8 yd. container	\$113.75	-
10 yd. roll-off	\$162.24	\$324.50
20 yd. roll-off	\$324.50	\$649.00
25 yd. roll-off	\$395.00	\$790.00
30 yd. roll off	\$470.75	-
1-hopper	\$31.50	(no ½ hopper)
Eaton swarf	\$676.00	-

Dumping Charges At Trans. Station	
C.Y. const	\$15.50 minimum

C.Y. non-const	\$15.50
C.Y. shingles	\$27.00

Container Rental Rates - last day of month (Rent charged when not dumped twice a month)	
1 yd., 2 yd.	\$13.75/mo.
4 yd., 6yd., 8 yd.	\$21.00/mo.
10 yd.	\$42.00/mo.
20 yd., 25 yd., 30 yd.	\$90.00/mo.

Monthly Scheduled Recycling Commercial Rates - Picked up Wed & Fri Only			
	2 Yd. Container	4 Yd. Container	6 Yd. Container
1 day/wk per mo.	\$17.75	\$24.50	\$29.00
2 day/wk per mo.	\$33.50	\$42.00	\$55.25
On-call rate for sw division sheet	\$12.00	\$24.00	\$35.75

Compactor Industrial Rates (Per Dump)	
30 Yd. container	\$465.00
40 Yd. container	\$540.00

Special Items		
	At Trans. Station	Curbside
Television up to 13"	\$10.00	\$15.00
Television 14" - 26"	\$15.00	\$20.00
Television 27" +	\$20.00	\$25.00
Flat Screen Television	\$10.00	\$15.00
Computer Monitor	\$10.00	\$15.00
Misc. E-waste	\$3.00	\$8.00
Printers	\$5.00	\$10.00
Computer Tower	\$5.00	\$10.00
Garage Door Openers	\$5.00	\$10.00
Propane Tank (20lbs)	\$5.00	\$10.00
Appliances	\$15.00	\$20.00
Water Softners	\$7.00	\$12.00
Pianos/Organs	\$15.00	\$25.00
Furniture	\$7.00	\$12.00
Tires:		
Car	\$5.00	\$12.00
Small truck & SUV	\$8.00	\$18.00
Lg Truck/Semi	\$12.00	\$22.00
Implement	\$12.00	\$22.00
Ex Large	\$40.00	\$50.00
Tires w/ Rims (extra)	\$5.00	\$5.00

Residential Units (Monthly Rates - last day of month)	
Single Family Dwellings	\$18.93

Mobile Homes	\$18.93
Multiple Unit Buildings (Per Unit):	
First 12 Units	\$18.93
Next 13-20 Units	\$13.25
Next 21 + Units	\$9.75

All units within a dwelling will be charged for monthly service

Additional Items		
	At Trans. Station	Curbside
Carpet (per C.Y.)	\$14.50	
Grass (ea. bag)	-	\$1.00
Leaves (ea. bag)	-	\$1.00
Brush (ea. bundle)	-	\$1.00
Delivery charge	\$25.00	
Untarped	\$10.00	
(Grass, Leaves, and Brush are picked up Thursday & Friday only)		

(Ord. 845, 5-20-2019, eff. 7-1-2019; Ord. 857, 6-1-2020, eff. 7-1-2020)

4-5-22: TRANSFER STATION:

The City maintains a solid waste transfer station at 3101 West 18th Street. Solid waste materials may be transported to this transfer station by citizens of the community and placed in designated containers or areas for disposal. Charges will be imposed for solid waste delivered to the transfer station pursuant to the schedule of rates and charges incorporated in this chapter. (Ord. 399, 3-18-1991, eff. 4-1-1991)

4-5-23: COLLECTION RATE REVIEW BOARD:

For purposes of administering the provisions of this chapter and to ensure that the charges imposed upon the citizens of Spencer for solid waste collection services are reasonably fair and equitable, there is hereby established a Solid Waste Collection Rate Review Board (hereinafter, the "board").

A. Membership; Organization: The board shall consist of three (3) persons appointed by the Council for terms of four (4) years. Members shall serve without compensation, but may receive their actual expenses. Vacancies shall be filled in the same manner as original appointments. A Chairman of the board shall be chosen by the Council.

B. Duties Of The Board: It shall be the duty of the board to accept, consider and rule on applications from citizens of Spencer for partial refunds of solid waste collection charges.

C. Procedure: The board is empowered to adopt rules, forms and regulations to aid in the performance of its duties, which rules and regulations shall be maintained in the Office of the City Clerk, and which shall be available for public inspection during normal business hours.

Any citizen of the City may make application to the board for partial relief from solid waste collection charges, based on special circumstances or financial hardship.

The board is empowered to consider and rule on such application according to its rules and regulations and to grant the applicant partial relief in the form of a partial refund of solid waste collection charges paid.

The rules and regulations of the board notwithstanding, any applicant who desires an oral hearing shall be granted such a hearing before the board, upon prior written notice.

In all cases, applications shall be decided within forty five (45) days of submission.

D. Secretary And Records: The Spencer City Clerk shall be the Secretary of the board. The Clerk or Deputy shall attend board meetings and keep minutes thereof and shall maintain records of the board's action.

The Clerk shall make available to the public, upon request, statistical information as to the number of applications received and the amount of relief granted, but the names of applicants shall remain confidential. (Ord. 416, 6-1-1992, eff. 7-1-1992; Ord. 428, 10-19-1992)

CHAPTER 6

HAZARDOUS SUBSTANCES

SECTION:

4-6-1: Purpose

4-6-2: Definitions

4-6-3: Cleanup Required

4-6-4: Notifications

4-6-5: Police Authority

4-6-6: City Liability

4-6-1: PURPOSE:

In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the City limits. (Ord. 280, 8-1-83)

4-6-2: DEFINITIONS:

If words and phrases used in this Chapter are defined in the Code of Iowa, such definitions are incorporated in this Chapter by reference. (Ord. 280, 8-1-83; 1991 Code)

4-6-3: CLEANUP REQUIRED:

Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup as rapidly as feasible to an acceptable safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup or that the City will proceed to procure cleanup services and setting forth a reasonable estimate of the costs of cleanup and bill the responsible person for all costs associated with the cleanup, including but not limited to equipment rendered unserviceable; personnel costs, including overtime; disposal costs; and any other costs associated therewith. If the bill for those services is not paid within thirty (30) days, the City may proceed after service of notice, either by certified mail or one publication in the local newspaper and hearing before the City Council, to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State and Federal funds available for said cleanup. (Ord. 280, 8-1-83)

4-6-4: NOTIFICATIONS:

The first person who arrives at the scene of an incident or learns of an incident involving hazardous substances, if not a peace officer, shall notify the Police Department, Fire Department and the proper State office in the manner established by the State. (Ord. 280, 8-1-83; 1991 Code)

4-6-5: POLICE AUTHORITY:

If the circumstances reasonably so require, the Chief of Police, Chief of Fire Department or his representatives may:

- A. Evacuate persons, even from their homes, to areas away from the site of a hazardous condition, and
- B. Establish perimeters or other boundaries at or near the site of a hazardous condition beyond which no person shall cross.

No person shall disobey an order of the Chief of Police or any other police officer issued under this Section. (Ord. 280, 8-1-83)

4-6-6: CITY LIABILITY:

The City shall not be liable for any losses occurring due to any hazardous condition created which may be claimed by any person. (Ord. 280, 8-1-83)

CHAPTER 7

ODOR CONTROL

SECTION:

4-7-1: Definitions

4-7-2: Odor Pollution Prohibited

4-7-3: Classification As Significant Odor Generator

4-7-4: Building Permits

4-7-5: Inspection

4-7-6: Appeal

4-7-1: DEFINITIONS:

The following words, terms and phrases, when used in this chapter, shall be defined as provided below:

ATMOSPHERE: All space outside of buildings, stacks or exterior ducts.

BEST AVAILABLE CONTROL TECHNOLOGY (BACT): The utilization of those technologies, processes, procedures, or operating methods, or alterations by an industry or other source which results in elimination or the maximum achievable reduction of odor pollution from an odor emission point source.

EMISSION: A release of air contaminants causing an odor to enter the outdoor atmosphere.

ODOR: That which produces a response of the human sense of smell to an odorous substance which is deemed objectionable by a reasonable person.

ODOR ALERT: An odor circumstance which generates three (3) or more unrelated complaint calls to the city within a six (6) hour period, and which is determined by the building and zoning officer and at least one other city employee to constitute an objectionable odor.

ODOR POLLUTION: An odor emitted to the atmosphere by an industry or other source which is determined by the building and zoning officer to be the cause of an odor alert.

SIGNIFICANT ODOR GENERATOR: An industry, facility or other source which has been identified by the building and zoning officer as the cause of three (3) odor alerts in a ninety (90) day period or which, due to the nature of the commercial or industrial process, is reasonably likely to be an odor pollution producer if best available control technology is not implemented and monitored. (Ord. 751, 6-3-2013)

4-7-2: ODOR POLLUTION PROHIBITED:

No person, industry, facility or other source shall erect, continue, or use any building or other place that occasions "odor pollution" as defined in section 4-7-1 of this chapter. The production of odor pollution is deemed a public nuisance and an environmental violation. A violation of this section may be prosecuted by a municipal infraction citation, independently of the provisions of this chapter. (Ord. 751, 6-3-2013)

4-7-3: CLASSIFICATION AS SIGNIFICANT ODOR GENERATOR:

Upon a determination by the building and zoning officer that an industry, facility or other source is a significant odor generator, the building and zoning officer shall notify the operator and shall require the operator to provide to the city, within thirty (30) days of the date of notification, a compliance plan, including an evaluation and analysis of odor produced, a description of investigation undertaken and studies conducted, and a description of a proposed plan utilizing the BACT for the mitigation and ongoing control of odor. The period of time for the production of this report shall be determined by the building and zoning officer.

Upon receipt of the compliance report, the building and zoning officer shall review the report for adequacy. If deemed necessary by the building and zoning officer, the report may be submitted to a private consultant for review and recommendation; the cost of the consultant's review will be borne by the subject industry, facility or source.

The report shall include an implementation plan which shall include implementation, operation, observation and maintenance of technologies, processes, procedures or operating methods to accomplish best available odor control. (Ord. 751, 6-3-2013)

4-7-4: BUILDING PERMITS:

At the time of application for a zoning compliance permit for construction or expansion of an industry, facility, or other source which has been determined to be a potential significant odor generator by the building and zoning officer, that industry, facility or source may be required to commence an evaluation and analysis of all of its processes and potential odor emission points to determine their degree of potential odor generation. In addition to an evaluation of the odor emission points, the industry, facility or other source shall provide to the city a report with engineering detail of an odor control plan utilizing the BACT for the mitigation and ongoing control of odor from the emission points designated and determined as a result of study or analysis. No zoning compliance permit will be issued until such time as the report and control strategy has been submitted to, reviewed and approved by the building and zoning officer.

If deemed necessary by the building and zoning officer, the report may be submitted to a private consultant for his or her review and recommendation; the cost of the consultants will be borne by the subject industry, facility or other source.

The control strategy shall include such monitoring, instrumentation and equipment as needed to ensure the maximum effective operation of BACT. The control strategy shall also include procedures for recordkeeping and monitoring of the operation and observation of the monitoring, instrumentation and equipment and the operation and maintenance of the technologies, processes, procedures or operating methods or alterations utilized in or by the BACT. (Ord. 751, 6-3-2013)

4-7-5: INSPECTION:

On presentation of proper credentials, the building and zoning officer may enter, inspect, and test any property or place regarding which complaints have been filed or which has been designated as a significant odor generator, or to otherwise enforce and implement this chapter. An administrative search warrant may be obtained upon the failure of the operator or owner to permit such inspection upon request. (Ord. 751, 6-3-2013)

4-7-6: APPEAL:

An industry, facility or other source aggrieved by a requirement of the building and zoning officer pursuant to this chapter may file an appeal, in writing, with the building and zoning officer requesting a hearing before the city council. The appeal request must be filed within seven (7) days of the order or action from which appeal is requested. Upon the receipt of a request for appeal, the building and zoning officer shall notify the city manager and the mayor. A time, date and place of hearing before the council shall be set not later than ten (10) days after receipt of notice of the appeal. The building and zoning officer shall notify the appellant of the time, place and date of hearing not less than seven (7) days before that date.

At the hearing of the appeal, the appellant shall be afforded a full opportunity to be heard and shall have the right to produce witnesses and to be represented by counsel. After hearing all relevant evidence, the council shall act to deny or grant the appeal. An appeal stays all proceedings by the city until the council renders a decision upon the appeal. (Ord. 751, 6-3-2013)

TITLE 5

PUBLIC WAYS AND PROPERTY

CHAPTER 1

STREETS AND SIDEWALKS

SECTION:

5-1-1: Prohibited Acts

5-1-2: South Grand Avenue Corridor

5-1-1: PROHIBITED ACTS:

A. Obstruction Of Streets, Driveways, Crossings And Sidewalks: It shall be unlawful to join any group of persons on any sidewalk, driveway, crossing or street so as to obstruct the free passage thereon or the passage into any public or private building, place of business or church.

B. Goods And Wares On Streets: It shall be unlawful to place upon or allow to be placed upon any sidewalk, street or alley, any goods, wares or merchandise, for sale or show or to suspend the same in any manner over a sidewalk, street or alley so as to interfere in any manner with the free and uninterrupted passage on the sidewalk, street or alley except as otherwise provided in article F of this chapter. (Ord. 328, 2-3-1986; Ord. 844, 5-6-2019)

5-1-2: SOUTH GRAND AVENUE CORRIDOR:

A. There is hereby confirmed and established in the City a public right-of-way which is hereby designated the "South Grand Avenue Corridor" and which consists of the public right-of-way designated as U.S. Highway 71 and South Grand Avenue in the City from the south end of the Grand Avenue-Highway 71 bridge over the Little Sioux River at the north end to the intersection of South Grand Avenue and Grand Plaza Drive at the south end.

B. For purposes of this section, the public right-of-way shall be deemed to extend to the outside edge of the sidewalk or sidewalk line.

C. There are incorporated in the South Grand Avenue Corridor, between the surfaced portion of the highway and the sidewalks, "green areas". These "green areas" are included within the public right-of-way and are owned and shall be controlled by the City through its Public Works Department.

D. In the "green areas" incorporated in the South Grand Avenue Corridor as described above, turf or sod shall be maintained. No person shall place any improvement or temporary or permanent object or obstruction in the "green area"; except with the express permission of the City. Included within this prohibition shall be all signs, trees, bushes or shrubs and landscape features, including rock or gravel, except that adjoining property owners may plant, cultivate and maintain vegetation which does not exceed twelve inches (12") in height. This provision shall not prevent the City from approving, placing or maintaining such objects or improvements as are deemed appropriate, subject to the regulations of the Iowa Department of Transportation. (Ord. 417, 6-15-1992)

ARTICLE A. CONSTRUCTION AND REMOVAL

SECTION:

5-1A-1: Curbs And Gutters

5-1A-2: Street Surfacing

5-1A-3: Sidewalks

5-1A-4: Maintenance And Preservation Of Existing Public Sidewalks

5-1A-1: CURBS AND GUTTERS:

A. Curb Lines: The curb line on all streets is hereby fixed and established as follows:

<u>Street Width</u>	<u>Distance From Property Line</u>
100 feet	17 feet
66 feet	13 feet
60 feet	10 feet

The curb line on any street may be established at a different distance from the property line by special ordinance than is fixed in this section without repealing generally the provisions of this section.

B. Grade; Material: All curbs shall be constructed to grade and be of such material as the city council shall order and according to the plans and specifications for such construction as shall be on file in the office of the city clerk. Such construction shall be under the supervision of the superintendent of public works or other authorized person.

C. Permit For Removal: Whenever any person shall desire to remove any portion of any curb, gutter, or curb and gutter located in

the public streets and alleys of the city, such person shall first obtain from the superintendent of public works a permit to do so by making written application therefor setting forth therein the purpose of such proposed construction plans and agreeing to comply with the provisions of this code in the removal of same and agreeing that said work shall be done under the direction of and subject to inspection and approval by the superintendent of public works and agreeing that all removal and construction work which may be done contrary to such application and permit shall be removed and reconstructed by such person and at his expense. (Ord. 48, 12-7-1953; Ord. 98, 8-7-1961)

5-1A-2: STREET SURFACING:

A. Street Surfacing: The requirement for all new street surfacing construction within the city shall be as follows:

All residential streets shall be thirty one feet (31') in width, including curbs, surfaced with concrete at least six inches (6") in thickness constructed of air entraining Portland cement, or equal. The city council may require a wider width and/or an increased thickness for a through street.

B. Assessment: The total project cost of surfacing the streets so constructed shall be assessed eighty percent (80%) to the adjoining property with the remaining twenty percent (20%) to be paid by the city by issuance of general obligation bonds or by the use of such other funds as may be available for same. This section shall not apply to such requirements as to street surfacing as the subdivider of a subdivision may be required to meet before the city council will approve a plat of a subdivision ¹. (Ord. 102, 7-2-1962)

Notes

¹ 1. See subsection 9-13-4N of this code.

5-1A-3: SIDEWALKS:

A. Repair, Replacement Or Reconstruction By Property Owner(s):

1. The city council may serve notice on the abutting property owner by certified mail to the property owner, as shown by the records of the county auditor, requiring him to repair, replace and reconstruct sidewalks.

2. If the abutting property owner does not perform an action required under this subsection A within a reasonable time, the city council may require the superintendent of public works to perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

B. Authority Of City To Construct Or Repair Sidewalks: Except as provided in subsection A of this section, a plan for construction or repair of any permanent sidewalk may be initiated either:

1. By a written contract to be approved by the city and signed by all of the owners of record of all property who would be affected by an assessment made to finance the construction or repair; or

2. Upon the council's own motion, as a special assessment project.

C. Permit For Construction: Whenever any person shall desire to remove any sidewalk, either for the purpose of rebuilding or replacing the same with a new walk, and whenever a person shall desire to construct or reconstruct any sidewalk, whether ordered by the city council or not, he shall, before proceeding with the work or removing, constructing or reconstructing said sidewalk, obtain from the superintendent of public works or other person authorized by the council, a permit to do so and agree in writing filed with the superintendent that he will, in the removal, construction or reconstruction of said sidewalk, comply with the provisions of this code and the specifications for sidewalks prepared by the order of the city council, approved by the city council, and on file in the office of the superintendent of public works, and that said work shall be done under the direction and subject to the approval of the superintendent of public works, or other person authorized by the council, and that he will hold the city free from any liability for damages on account of injuries received by anyone through the negligence of such person or his agents or servants in the removal, construction or reconstruction of such sidewalk, or by reason of such person's failure to properly guard the premises. All such permits issued for the removal, construction or reconstruction of sidewalks shall state when the work is to be done and, in case of removal, when the sidewalk is to be restored or reconstructed.

D. Specifications For The Construction Of Sidewalks: Sidewalks constructed under the provisions of this article, or voluntarily constructed by property owners within the city, shall be constructed according to the standards and specifications adopted by the superintendent of public works which shall be available at the office of the superintendent of public works during normal business hours.

E. Width Of Walks: Sidewalks hereafter constructed shall be not less than four feet six inches (4'6") in width. The superintendent of public works may require the construction of wider sidewalks based upon the width of connecting walks, projected utilization and other factors which he determines to be relevant.

F. Inspection: All sidewalks shall be removed, constructed, reconstructed and repaired under the supervision and subject to the inspection and approval of the superintendent of public works or other person authorized by the city council. Whenever any sidewalk is constructed or reconstructed which does not conform to the provisions of this article or is not constructed or reconstructed at the time provided for in the permit, the council shall cause to be served upon the property owner, or his agent, five (5) days' notice to construct or reconstruct such sidewalk in the proper manner and of the proper materials. In case of failure to comply with the terms of such notice, the city shall proceed under the terms of this article to have the walk constructed or reconstructed and assess the costs thereof against the property.

G. Liability: As a condition precedent to the construction and maintenance of a sidewalk within the city, the property owner shall hold the city harmless in regard to any and all claims, damages, attorney fees and other costs attendant to any claim arising out of the use, maintenance or removal of ice or snow from a sidewalk. The construction or maintenance of a sidewalk within the city shall be deemed acceptance of the obligation to hold the city harmless from any claims as herein provided.

H. Alternate Sidewalk Or Driveway Approach Surfaces:

1. Sidewalk or driveway approach surfaces other than standard Portland cement concrete shall be permitted only as provided in the "General Specifications for Construction of Concrete Sidewalks" adopted by the Spencer department of public works.

2. If it becomes necessary for the city or a franchisee to remove and replace an existing sidewalk or driveway approach that incorporates an alternate surface, the city or franchisee shall not be required to replace the alternate surface. The city or franchisee shall be required only to replace any removed sidewalk or driveway approach with Portland cement concrete surface to the specifications adopted by the public works department. The replacement of any alternate surface shall be accomplished by and at the expense of the adjacent property owner.

I. Finish: All sidewalks and driveway approaches constructed under the provisions of this article shall be finished with a granular, "broom", or other equivalent nonslip surface. Smooth, steel troweled finishes are not permitted.

J. Permit Fee: The fees required for permits required to construct or repair sidewalks or driveway approaches under this section shall be in amounts as determined from time to time by resolution of the Spencer city council. (Ord. 259, 6-21-1982; Ord. 315, 4-1-1985; Ord. 541, 12-18-2000)

5-1A-4: MAINTENANCE AND PRESERVATION OF EXISTING PUBLIC SIDEWALKS:

No sidewalk established and existing on public right of way on the effective date hereof shall hereafter be removed, except with the permission of the city. All such sidewalks shall hereafter be maintained as provided in this chapter and the laws of the state of Iowa. However, a property owner may apply to the city council for an exemption from this provision, and the council may grant an exemption if the council finds there is no connecting sidewalk and there is no benefit to the maintenance of sidewalk that is proposed to be removed. (Ord. 567, 4-15-2002)

ARTICLE B. EXCAVATIONS

SECTION:

5-1B-1: Short Title

5-1B-2: Purpose And Scope

5-1B-3: Definitions

5-1B-4: Excavator's License

5-1B-5: Permit To Excavate

5-1B-6: Exemptions

5-1B-7: Preexcavation Requirements

5-1B-8: Excavation; Protection, Compaction, Restoration

5-1B-9: Inspections

5-1B-10: Licenses

5-1B-11: Rules And Regulations

5-1B-12: Violation; Penalties

5-1B-1: SHORT TITLE:

This article shall be known as the *CITY OF SPENCER, IOWA, EXCAVATION ORDINANCE* and may be so cited. (Ord. 183, 10-6-1975)

5-1B-2: PURPOSE AND SCOPE:

It is the purpose of this article to adopt a complete excavation code, including provisions for the licensing of excavators, issuing permits, collecting fees, regulating and inspecting excavations and providing penalties for violations of this article.

The provisions of this article shall apply to and govern excavations within the corporate limits of the city. (Ord. 183, 10-6-1975)

5-1B-3: DEFINITIONS:

ALLEY: The length as dedicated for use by the public and the width as defined by the property lines on each side thereof.

EXCAVATION: Any removal or disturbance of material to a depth of more than three inches (3") within the traveled way of any street or alley or the removal or disturbance of material to a depth of more than ten inches (10") in sod or soil areas of any publicly owned property, in connection with any service line or in connection with any "private sewage treatment system". "Excavation" is further defined to include all tunneling, pushing or jacking under any publicly owned property or of any service line within the corporate limits of the city. "Excavation" shall not include gardening, landscaping or fence construction on private property.

EXCAVATOR: Any person, firm or corporation who performs the act of excavation through the use of mechanically powered equipment.

PARKING: That portion of the street lying outside the traveled way.

PRIVATE SEWAGE TREATMENT SYSTEM: A system which provides for treatment or disposal of domestic sewage from four (4) or

fewer dwelling units.

PUBLICLY OWNED PROPERTY: All real property owned or controlled by the city of Spencer, including public easements over privately owned real property.

SERVICE LINES: Underground pipes, cables, wires, and conduits to connect improvements on private property to public utilities including water, sanitary sewer, natural gas, electricity and communications.

STREET: The length as dedicated for use by the public and the width as defined by the property lines on each side thereof.

TRAVELED WAY: The width from curb to curb on curbed streets, from edge to edge on asphalt noncurbed streets and from shoulder to shoulder on gravel streets.

UTILITIES: Shall include all underground cables, conduit and pipe used for the transportation or distribution of fuel, electricity, communication services, water or sewage. (Ord. 183, 10-6-1975; Ord. 792, 10-19-2015)

5-1B-4: EXCAVATOR'S LICENSE:

No person shall engage in the practice of "excavation" for compensation unless licensed as an excavator in the city. An excavator's license will be issued by the city clerk upon submission of a written application on forms obtained from the clerk and upon fulfilling the fee, bonding and insurance requirements as specified herein. The licensing period shall be from February 1 to January 31.

A. Fee: The license fee for an excavator's license for the licensing period, or any part thereof, shall be fifty dollars (\$50.00).

B. Surety Bond: A surety bond in the amount of ten thousand dollars (\$10,000.00) must be filed in favor of the city. Such bond must run throughout the licensing period and shall be conditioned upon the faithful performance of all duties required by ordinance, rules or regulations of the city.

C. Insurance; Assumption Of Liability: Any person licensed as an excavator must file proof of liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) per person, three hundred thousand dollars (\$300,000.00) per occurrence, and one hundred thousand dollars (\$100,000.00) for property damage with the city clerk and must agree, in writing, on forms provided by the clerk to hold the city harmless from any and all damages claimed by reason of negligence, incompetence or omission on the part of such person in the performance of their work, the same to include, but not be limited to, careless guarding of excavations made by them or failure to restore all public properties to as good a condition as they were before such work was done, or for any damages growing out of the negligence or carelessness of any such licensed person. (Ord. 183, 10-6-1975; Ord. 434, 2-1-1993; Ord. 532, 7-5-2000; Ord. 792, 10-19-2015)

5-1B-5: PERMIT TO EXCAVATE:

No excavation shall be initiated without a permit being issued by the city except as provided for in section 5-1B-6 of this article.

A. Application: Application for an excavation permit shall be made at least twenty four (24) hours in advance, in writing, to the city on forms provided by the city. In the case of a bona fide emergency, the written application may be filed after the excavation has been initiated providing that the intent to excavate has been reported to the department of public works, either in person or by telephone.

B. Permit; To Whom Issued: A permit to excavate shall be issued only to a licensed excavator, to a governmental unit of the city, to a contractor performing work under a written contract with any governmental unit or any owner of a utility franchised to operate within the city, or to the owner of a utility franchised to operate within the corporate limits of the city; however, the issuance of a permit under the provisions of this article shall not relieve any permittee from compliance with all requirements of this article nor relieve the permittee of any liability for damage to any existing utility. The city assumes no liability whatsoever by virtue of the issuance of said permit. The permit shall be maintained on the site while the excavation is in progress.

C. Permit Fee: The fee for each permit issued under the provisions of this article shall be twenty five dollars (\$25.00). However, if an excavation is begun before a permit is issued, the permit fee shall be fifty dollars (\$50.00).

D. Permit Expiration: Every permit issued under the provisions of this article shall expire by limitation and become null and void if the work authorized by such permit is not commenced within twenty (20) days from the date of such permit.

E. Multiple Excavations: An application for an excavation permit may cover multiple excavations to be accomplished by the applicant. The city public works director, in his discretion, may issue a permit covering multiple excavations if, in the judgment of the public works department, the excavations are minor, are components of a single construction project and can be efficiently monitored and inspected by the department as a group, under a single permit. (Ord. 183, 10-6-1975; Ord. 434, 2-1-1993; Ord. 532, 7-5-2000; Ord. 584, 6-16-2003)

5-1B-6: EXEMPTIONS:

A. The following shall be exempt from the licensing and permit requirements:

1. Employees of the department of public works of the city, while engaged in work directed by the city, shall be exempt from the requirements of sections 5-1B-4 and 5-1B-5 of this article, but shall comply with all other sections and provisions of this article.

2. Spencer park employees when performing work within the property lines of the areas designated as the park system.

B. The following shall be exempt from the licensing requirements:

1. All governmental units of the city.

2. All utility companies franchised to operate within the corporate limits of the city.

3. All contractors performing work under a written contract with any governmental unit or any franchised utility company. (Ord. 183, 10-6-1975)

5-1B-7: PREEXCAVATION REQUIREMENTS:

It shall be the responsibility of each permittee to notify all utility companies of the intended excavation. Except in the case of bona fide emergency, a minimum twenty four (24) hours' advance notice is required. The permit form shall serve as a guide to assist the permittee in scheduling and documenting utility clearance. (Ord. 183, 10-6-1975)

5-1B-8: EXCAVATION; PROTECTION, COMPACTION, RESTORATION:

The permittee shall be responsible for barricading the excavation in conformance with the "Manual On Uniform Traffic Control Devices", federal highway administration.

A. Backfilling And Compaction: Backfilling of an excavation shall be accomplished within forty eight (48) hours of the commencement of the excavation. Replacement and compaction of the backfill shall be done as directed by the department of public works.

B. Restoration: Any surface disturbed by excavation shall be restored to as good a condition as it was prior to the excavation. Such restoration must be made within seventy two (72) hours after completion of backfilling unless a time extension is granted by the department of public works. The following restoration procedures are to be complied with:

1. Asphalt And Portland Cement Concrete: Asphalt spade or saw cuts, depth of repair and related restoration procedures will be as directed by the department of public works.

2. Graveled Surfaces: Graveled surfaces shall be bladed, shaped and resurfaced with two inches (2") of gravel.

3. Parkings: Parkings are to be restored as nearly as possible to their original condition. Grass parkings are to be reseeded or resodded as necessary to fulfill this requirement. The parking restoration requirement will be waived when the abutting property owner requests such a waiver.

In the event the permittee lacks the proper equipment or ability to restore an asphalt, portland cement concrete or graveled surface, the permittee may request the city to perform the work. If the city agrees to do the work, the permittee will be responsible for paying the city for all costs incurred in restoring the surface. Such a request must be made in writing within twenty four (24) hours after the backfilling is completed. (Ord. 183, 10-6-1975; Ord. 584, 6-16-2003)

5-1B-9: INSPECTIONS:

The provisions of this article do not relieve or change any inspection requirements contained in this code, or in any rules and regulations as approved by the city council. (Ord. 183, 10-6-1975)

5-1B-10: LICENSES:

The city clerk is hereby authorized and directed to prepare the license forms authorized by this article and to issue the same upon compliance with the application, bonding and insurance requirements of this article and upon payment of the required fee. (Ord. 183, 10-6-1975)

5-1B-11: RULES AND REGULATIONS:

The department of public works is hereby authorized and directed to promulgate rules and regulations necessary to effect the purposes of this article, to prepare the permit forms required by this article, to prepare the necessary related forms and to issue such permits in compliance with this article. (Ord. 183, 10-6-1975)

5-1B-12: VIOLATION; PENALTIES:

Any person, firm or corporation violating or failing to comply with any provision of this article shall be subject to a fine as provided in section 1-4-1 of this code, and/or revocation of excavator's license for a period of up to sixty (60) days. (Ord. 183, 10-6-1975; 1991 Code)

ARTICLE B1. NONFRANCHISED ENTITIES; RIGHT-OF-WAY USE

SECTION:

5-1B1--1: Definitions

5-1B1--2: Exemptions

5-1B1--3: Use Of Public Right Of Way

5-1B1--4: Application Required

5-1B1--5: Action On Application

5-1B1--6: Construction Permit

5-1B1--7: Compliance With Excavation Requirements

5-1B1--8: Minimum Requirements

5-1B1--9: Identification Signs

5-1B1-10: Maintenance Permit

5-1B1-11: Right-Of-Way Management Fees

5-1B1-12: Rules And Regulations

5-1B1-13: Removal Or Relocation

5-1B1-14: Location And Exposure

5-1B1-15: Indemnification

5-1B1-1: DEFINITIONS:

PERSON: Any individual, partnership, corporation or other legal entity.

PUBLIC RIGHT OF WAY: Any portion of any street, alley or easement in the City of Spencer which has been dedicated to the public and is controlled by the City of Spencer.

UTILITY: Any pipe, cable, conduit or other equipment, structure or property placed or maintained on or under a public right of way. (Ord. 411, 2-17-1992)

5-1B1-2: EXEMPTIONS:

The City of Spencer, the Spencer Municipal Utilities, and any holder of a franchise granted by the City are hereby declared to be exempt from the provisions of this Article.

Service connections made to Municipal utilities or utilities installed by a franchise holder, such as sanitary sewer connections, water main connections, natural gas service lines and telephone and cable television services, shall also be exempt from the requirements of this Article. Such service connections shall be regulated pursuant to other provisions of this Code, the rules and regulations of the Spencer Municipal Utilities, and the rules and regulations of franchise holders concerning service connections. (Ord. 411, 2-17-1992)

5-1B1-3: USE OF PUBLIC RIGHT OF WAY:

No person shall place, construct or maintain any utility in any public right of way in the City except in strict conformance with the provisions of this Article.

Any placement or construction of a utility in a public right of way not in strict conformance with the provisions of this Article shall constitute a violation of this Code, punishable as provided herein. A separate violation shall be deemed to have been committed during each calendar day in which a utility is placed, constructed or maintained in violation of this Article.

Further, the City may require the immediate removal of any such utility, and the City may, at the owner's expense, accomplish such removal. (Ord. 411, 2-17-1992)

5-1B1-4: APPLICATION REQUIRED:

Any person who desires to place, construct or maintain a utility in a public right of way shall make application therefor to the City Department of Public Works on a form provided by that Department. Such application shall include:

- A. The name, address and telephone number of the applicant and of the owner of the proposed utility.
- B. Plans and specifications for the proposed utility, including the specific proposed location and, if underground, the proposed depth.
- C. The purpose and use of the proposed utility.
- D. A specific description of the materials and equipment to be installed.
- E. The area, in square feet, and the length, in linear feet, of the utility to be installed in the public right of way.
- F. An application fee shall be required in an amount determined by the Public Works Director through negotiation with the applicant based upon the actual costs to be incurred by the City in reviewing, approving and administering the application and in accommodating and assisting the applicant. The minimum application fee and the fee to be charged for an application that is denied shall be the amount of fifty dollars (\$50.00). (Ord. 411, 2-17-1992; Ord. 532, 7-5-2000)

5-1B1-5: ACTION ON APPLICATION:

Upon receipt of an application pursuant to Section 5-1B1-4 of this Article, the Department of Public Works shall consider the application and determine whether the utility may safely and reasonably be installed in the public right of way as proposed. The issuance of a permit for placement of a utility pursuant to this Article shall be in the discretion of the Department of Public Works and shall not be issued as a matter of right. The Department of Public Works may condition the issuance of a permit upon additional requirements, or may refuse to grant a permit. In considering an application, the Department shall consider the following factors:

- A. Whether the proposed utility is consistent with existing and proposed future uses of the right of way.
- B. Whether the proposed utility may be installed and maintained without risk of damage or interference with other existing or proposed utilities.
- C. The benefit to be derived from the proposed utility and the availability of alternatives to placement of the utility in the public right of way.
- D. Potential interference or additional burden upon established public utilities of governmental units and franchise holders, which public utilities shall have priority.
- E. Other relevant factors and circumstances. (Ord. 411, 2-17-1992)

5-1B1-6: CONSTRUCTION PERMIT:

Within fourteen (14) days of the receipt of an application under this Article, the Department of Public Works shall either deny the application or issue a permit, for construction of the proposed utility, including such additional requirements as the department of public works deems appropriate.

The construction permit shall include an expiration date. The permit shall expire on the date so designated and no construction or placement of a utility shall be accomplished thereafter, except upon the grant of a new permit. (Ord. 411, 2-17-1992)

5-1B1-7: COMPLIANCE WITH EXCAVATION REQUIREMENTS:

The installation of any utility pursuant to this article shall be subject to the applicable requirements of article B of this chapter. (Ord. 411, 2-17-1992)

5-1B1-8: MINIMUM REQUIREMENTS:

Any utility installed pursuant to the provisions of this article shall meet the following minimum requirements:

A. The public works director may require that any cable or conduit to be installed underground be encased, installed with warning tape, or otherwise protected or marked if he or she determines that such construction measures are reasonably necessary to protect the public safety and welfare or to protect underground utilities.

B. Any underground utility shall be installed at a depth of twenty four inches (24") below the established grade, or, if no grade is established, twenty four inches (24") below the existing surface.

C. New utility construction, and the replacement of all existing utilities, except electric transmission lines operating at a nominal 69 kilovolts or greater, shall be done underground, unless the utility owner establishes, to the satisfaction of the city council, that underground construction is not feasible and the council specifically authorizes, by resolution, aboveground construction.

The cost of underground utility construction shall be paid by the utility owner.

Maintenance and isolated repair activities are exempt from the requirements of this subsection. Maintenance and isolated repair is limited to the replacement or repair of isolated, worn, damaged or failed components. Maintenance and repair does not include any planned, systematic or progressive replacement or upgrading of any portion of a utility system involving more than two (2) poles per line mile.

The provisions of this subsection notwithstanding, a utility owner may accomplish temporary aboveground emergency repairs in order to maintain or restore service, but such temporary aboveground facilities shall be promptly replaced with permanent facilities in compliance with this chapter. (Ord. 411, 2-17-1992; Ord. 532, 7-5-2000; Ord. 599, 2-16-2004)

5-1B1-9: IDENTIFICATION SIGNS:

The permittee shall install permanent identification signs, at locations designated and approved by the city department of public works, which shall contain the following information:

- A. The name, address and phone number of the owner of the utility.
- B. The kind and nature of the utility.
- C. For underground utilities, an indication of the location of the utility. (Ord. 411, 2-17-1992)

5-1B1-10: MAINTENANCE PERMIT:

Upon completion of construction of a utility pursuant to a permit issued under section 5-1B1-5 of this article, the permittee shall report to the department of public works the completion of construction and shall provide "as built" plans of the utility as constructed, which shall specify the location of all components of the utility in the public right of way and of the identifying signs.

The department of public works shall approve the report and "as built" specifications submitted or may require additional reports, maps, diagrams or other information. When the department of public works is satisfied with the installation of the utility and the documentation provided, it shall signify on the construction permit that the utility has been approved for maintenance and operation. (Ord. 411, 2-17-1992)

5-1B1-11: RIGHT OF WAY MANAGEMENT FEES:

Each owner of a utility installed in the public right of way shall pay to the city clerk, during the month of January in each year, an annual right of way management fee. The first annual right of way management fee payment shall be made in the month of January following the first installation of all or any portion of the utility. Public right of way utility installation shall be classified as either "minor" or "major". "Minor" utilities shall be those installed within a single city block. "Major" utilities shall be those installed in more than one city block. Annual right of way management fees shall be as fixed by the council by resolution.

In addition to the payment of an annual right of way management fee as provided in the preceding paragraph, each owner of a utility installed in the public right of way shall pay to the city, within thirty (30) days of the receipt of the city's statement, the actual costs and expenses incurred by the city directly attributable to the installation, maintenance, or accommodation of the owner's utility installed in the public right of way. Such direct costs shall include personnel expenses, equipment expenses, materials, supplies, and administrative costs. (Ord. 411, 2-17-1992; Ord. 532, 7-5-2000)

5-1B1-12: RULES AND REGULATIONS:

The department of public works is hereby authorized and directed to promulgate rules and regulations necessary to accomplish the purposes of this article, to prepare the application and permit forms required by this article, to prepare any other forms and to issue or deny permits and approvals pursuant to this article. (Ord. 411, 2-17-1992)

5-1B1-13: REMOVAL OR RELOCATION:

Any utility installed pursuant to the provisions of this article shall, at the direction of the city, be temporarily or permanently removed or relocated when, in the opinion of the department of public works, such removal or relocation is required by reasons of public safety, street vacation, construction, change of street grade, installation of utilities by the city, the Spencer municipal utilities or a franchise holder, or for other reason. (Ord. 411, 2-17-1992)

5-1B1-14: LOCATION AND EXPOSURE:

If requested by the city department of public works, for construction, reconstruction, maintenance or repair, the owner of a utility placed pursuant to this article shall locate and expose any of its underground utilities, at no cost to the city. (Ord. 411, 2-17-1992)

5-1B1-15: INDEMNIFICATION:

The owner of any utility placed, operated or maintained pursuant to this article shall defend, at its own expense, and shall indemnify and save harmless the city from any and all claims, suits, losses, damages, costs, or expenses on account of injury or damage to any person or property caused or occasioned, or allegedly caused or occasioned, in whole or in part, by reason of or arising out of the construction, operation, or maintenance of its utility under this article. (Ord. 411, 2-17-1992)

ARTICLE C. GRADES

SECTION:

5-1C-1: Datum Plane

5-1C-2: Bench Marks

5-1C-3: Street Grades

5-1C-4: Schedule Of Grades

5-1C-5: Sidewalk Grades

5-1C-1: DATUM PLANE:

All grades are established and reckoned in feet and decimals of feet above an imaginary horizontal plane known as the datum plane. (Ord. 82, 5-17-1954; Ord. 318, 7-1-1985)

5-1C-2: BENCH MARKS:

The following bench mark elevations are established:

A. The U.S. Coast and Geodetic Survey bronze bench mark in the northwest corner of the foundation of the U.S. Post Office building on the southwest corner of block 26 of the Chicago, Milwaukee And St. Paul Railway Addition to Spencer. The elevation is 56.06. The elevation of this bench mark is 1320.716 above sea level. To change City datum to sea level elevation, add 1264.656.

B. The U.S. Coast and Geodetic Survey bronze tablet set in concrete in the "Y" formed by the two (2) walks leading from Grand Avenue to the City Electric Light Plant. The elevation is 51.14. The elevation of this bench mark is 1315.795 above sea level. (Ord. 82, 5-17-1954; Ord. 318, 7-1-1985)

5-1C-3: STREET GRADES:

All street grades shall be the grade at the center of the street and, where established at an intersection or junction, shall be the grade at the center of the intersection or junction.

The elevations established are the grades at the points named, and the grade points shall be connected by straight lines unless in the judgment of the Superintendent of Public Works or by a professional engineer vertical curves can be used to better advantage. (Ord. 82, 5-17-1954; Ord. 318, 7-1-1985; 1991 Code)

5-1C-4: SCHEDULE OF GRADES:

The City Council has developed a schedule of established street grades which schedule shall be updated by amendment to this article as the need arises to show current established street grades. Such schedule shall be maintained by the Director of Public Works or City Clerk and available for inspection by the public. (Ord. 318, 7-1-1985; Ord. 362, 7-5-1988; Ord. 369, 4-3-1989; 1990 Code; Ord. 404, 8-19-1991; Ord. 412, 2-17-1992; Ord. 458, 9-19-1994; Ord. 462, 6-5-1995; Ord. 477, 2-3-1997; Ord. 483, 11-3-1997; Ord. 537, 10-16-2000; Ord. 559, 11-5-2001; Ord. 588, 8-18-2003; Ord. 618, 3-7-2005; Ord. 651, 2-19-2007; Ord. 735, 3-19-2012; Ord. 745, 3-18-2013; Ord. 798, 3-21-2016; Ord. 832, 9-4-2018)

5-1C-5: SIDEWALK GRADES:

All sidewalks and terraces between property lines and top of curbs shall have a uniform grade of two and one-half percent ($2\frac{1}{2}\%$) unless otherwise ordered by the Superintendent of Public Works or by a professional engineer. (Ord. 82, 5-17-1954; Ord. 318, 7-1-1985; 1991 Code)

ARTICLE D. STREET NAMES

SECTION:

5-1D-1: Names Established

5-1D-2: Extensions

5-1D-3: General Plan

5-1D-1: NAMES ESTABLISHED:

The names of all streets and avenues, except alleys, in the city are hereby fixed and established to conform with the plan for designation and location of streets and avenues as herein provided. (Ord. 41, 12-7-1953)

5-1D-2: EXTENSIONS:

Wherever a street or avenue is mentioned in this article, the terms of the section so mentioning the same shall be construed to mean any extension thereof as may hereafter be designated and established. (Ord. 41, 12-7-1953)

5-1D-3: GENERAL PLAN:

The general plan for the designation of the streets and avenues of the city shall be as follows:

- A. All streets and public highways, except alleys, running north and south shall hereafter be known as avenues.
- B. All streets and public highways, except alleys, running east and west shall hereafter be known as streets, except as hereinafter provided.
- C. Avenues shall be designated by numbers, which shall run consecutively from the central street, known and identified as Grand Avenue, from Park Street north to the limits of the city and South Grand Avenue from said Park Street south to the limits of the city.
- D. The avenues north of Park Street and east from Grand Avenue shall be numbered consecutively to the east limits of the city and designated as 1st Avenue East and so forth.
- E. The avenues north of Park Street and west of Grand Avenue shall be numbered consecutively to the west limits of the city and designated as 1st Avenue West and so forth.
- F. The avenues south of Park Street and east of South Grand Avenue shall be numbered consecutively and designated as 1st Avenue Southeast and so forth, except that the street right of way included in the replat of lot 3, Egelston's irregular lots, shall be designated "4th Avenue East".
- G. The avenues south of Park Street and west of South Grand Avenue shall be numbered consecutively and designated as 1st Avenue Southwest and so forth.
- H. The same designation shall be made for the highways running east and west except the same shall be called streets instead of avenues, using East Park Street and West Park Street as the base street. (Ord. 41, 12-7-1953; Ord. 730, 9-19-2011)

ARTICLE E. SNOW REMOVAL

SECTION:

5-1E-1: Removal Of Snow And Ice

5-1E-2: Snow Waste

5-1E-3: Restrictions

5-1E-4: Permit Required

5-1E-5: Requirements For Permit

5-1E-6: Chemicals And Substances Used

5-1E-1: REMOVAL OF SNOW AND ICE:

It is the responsibility of the abutting property owner to remove snow and ice, within a reasonable time, from abutting sidewalks and from around trees, posts, benches and other obstructions to sidewalks. In the Spencer downtown commercial district (as described in subsection 5-1E-2D of this article), a reasonable time shall be twelve (12) hours from the cessation of snowfall. In all other areas of the city, a reasonable time shall be deemed to be twenty four (24) hours from the cessation of snowfall. If an abutting property owner does not remove snow and ice within the time specified in this section, the city may do so and assess the costs, including a reasonable administration fee, against the property owner for collection in the same manner as a property tax pursuant to section 364.12(2)(e) of the code of Iowa. (Ord. 259, 6-21-1982; Ord. 371, 5-15-1989; Ord. 664, 2-18-2008)

5-1E-2: SNOW WASTE:

A. Snow Removal From Private Property: It shall be unlawful to remove snow from private property, including, without limitation, private parking areas, private sidewalks and private drives onto any public property, including, but not limited to, sidewalks, streets, and other public rights of way.

B. Penalty: A violation of this section shall be a simple misdemeanor.

C. Responsibility For Snow Removal: If the snow is placed upon a public sidewalk in violation of this section, the owner of the abutting property is responsible for the prompt removal of such snow. If the abutting property owner fails to remove the snow, the city may perform the snow removal and assess the costs against the property for collection in the same manner as property tax pursuant to the provisions of section 364.12(2)(H) of the Iowa Code.

D. Exception: The foregoing provisions of this section notwithstanding, property owners in the downtown commercial district which shall mean properties abutting the following streets:

On Grand Avenue from Park Street to 8th Street;

On 2nd Street from a point 150 feet east of Grand Avenue to a point 150 feet west of Grand Avenue;

On 3rd Street from 1st Avenue West to 1st Avenue East;

On 4th Street from 2nd Avenue West to 2nd Avenue East;

On 5th Street from 2nd Avenue West to a point 150 feet east of 1st Avenue East;

On 7th Street from 1st Avenue West to 1st Avenue East;

On 1st Avenue East from 3rd Street to 7th Street;

On 1st Avenue West from 3rd Street to 7th Street; and

On 2nd Avenue West from 3rd Street to 5th Street;

whose sidewalks abut the street curb may place snow from these sidewalks into the street, provided:

1. All snow shall be placed not less than eighteen inches (18") or more than thirty six inches (36") into the street, measured from the face of the curb.

2. All snow placed in the street under the provisions of this subsection shall be placed within twelve (12) hours of the time of declaration of a snow emergency by the mayor under the provisions of section 7-5-7 of this code. (Ord. 328, 2-3-1986; Ord. 371, 5-15-1989)

5-1E-3: RESTRICTIONS:

On all public sidewalks located on Grand Avenue north of Park Street and south of Seventh Street and within one hundred fifty feet (150') of Grand Avenue on Second, Third, Fourth, Fifth, Sixth and the south side of Seventh Streets, and on sidewalks adjacent to Fourth Street from First Avenue East to First Avenue West, the following restrictions governing snow removal shall apply:

A. Equipment: All self-propelled snow removal equipment other than snowblowers shall utilize rubber or hard plastic components on that portion of a blade, plow or bucket that contacts the sidewalk surface. No metal blade, plow or bucket of self-propelled snow removing equipment, other than snowblowers, shall be permitted to come in contact with the sidewalk surface.

B. Downward Force Of Blade, Plow Or Bucket: No snow removal equipment which is capable of applying hydraulic, mechanical or other downward force, other than gravity, to the snow removal blade, plow or bucket shall be permitted.

C. Tire Chains: No tire chains shall be utilized on snow removal equipment, except walk behind snowblowers, used on sidewalks in the designated area.

D. Vehicle Weight Limitation: Vehicles or equipment with a gross vehicle weight in excess of six thousand (6,000) pounds and skid steer loaders shall not be operated on sidewalks in the designated area.

E. Authority Of Public Works Director: The city public works director, or his designee, shall have the authority to prohibit the use and operation for snow removal purposes of any equipment on sidewalks in the designated area when, in his judgment, such action is necessary to protect the sidewalk surface or the public safety. (Ord. 595, 11-3-2003)

5-1E-4: PERMIT REQUIRED:

No person shall operate a vehicle or equipment with a gross vehicle weight in excess of one thousand two hundred (1,200) pounds on those public sidewalks described in section 5-1E-3 of this article, unless that person has been granted a snow removal permit by the public works director. (Ord. 595, 11-3-2003)

5-1E-5: REQUIREMENTS FOR PERMIT:

The public works director may, in his discretion, issue to qualified applicants snow removal permits to authorize snow removal on those sidewalks described in section 5-1E-3 of this article with a vehicle or equipment of a weight greater than one thousand two hundred (1,200) pounds if the public works director determines that the applicant has the appropriate ability and experience and appropriate equipment.

An applicant for a snow removal permit must also satisfy the following requirements:

A. The applicant must maintain and file with the city clerk proof of general liability insurance in the amount of at least three hundred thousand dollars (\$300,000.00) per person, five hundred thousand dollars (\$500,000.00) per occurrence, and one hundred thousand dollars (\$100,000.00) for property damage during the term of the snow removal permit.

B. The applicant must agree, in writing, on forms provided by the city, to hold the city harmless from any and all damages claimed by reason of negligence, incompetence or omission on the part of such person.

The fee for a snow removal permit shall be fifty dollars (\$50.00). All snow removal permits, whenever issued, shall expire on September 30 of each year. (Ord. 595, 11-3-2003)

5-1E-6: CHEMICALS AND SUBSTANCES USED:

Only such chemicals or substances as may be approved by the city public works director shall be placed on or used to remove snow or ice from those public sidewalks described in section 5-1E-3 of this article. (Ord. 595, 11-3-2003)

ARTICLE F. SIDEWALK CAFES

SECTION:

5-1F-1: Definitions

5-1F-2: Sidewalk Cafes Permissible

5-1F-3: Restrictions On Smoking And Alcoholic Beverages

5-1F-4: Clear Way

5-1F-5: Tables And Chairs, Location And Requirements Of Furniture

5-1F-6: Sign Ordinance Requirements

5-1F-7: Delineating Sidewalk Cafe Area

5-1F-8: Service Requirements

5-1F-9: Days And Hours Of Operation

5-1F-10: Sidewalk Cafe Permits

5-1F-11: Insurance

5-1F-12: Grand Avenue Sidewalks

5-1F-1: DEFINITIONS:

For purposes of this article, the following terms shall have the following definitions:

CLEAR WAY: A portion of the public sidewalk maintained clear of obstruction not less than five feet (5') in width.

PERMITTEE: The person or entity granted a permit by the City Manager to operate a sidewalk cafe pursuant to this article.

SIDEWALK CAFE: A sidewalk cafe is any group of tables and/or chairs and decorative and accessory devices, situated and maintained upon the public sidewalk for use in connection with ordering, purchasing, and consuming food and beverages sold to the public from, or in, an adjoining indoor restaurant. For purposes of this definition, an indoor business which generates more than fifty percent (50%) of its gross revenue from the sale of food on the premises shall be considered an adjoining indoor restaurant. The permittee shall maintain and provide to the City, upon request, Sales Tax or other records to establish more than fifty percent (50%) food sales. (Ord. 844, 5-6-2019)

5-1F-2: SIDEWALK CAFES PERMISSIBLE:

A sidewalk cafe shall be permitted as follows:

- A. In zoning districts which allow indoor restaurants, and
- B. Adjacent to an indoor restaurant, which shall be construed as being immediately contiguous to and abutting the indoor restaurant on the public sidewalk.
- C. Where the cafe's operation is incidental to and a part of the operation of its adjacent indoor restaurant, and
- D. Provided the area in which the sidewalk cafe is located extends no farther along the sidewalk's length than the actual sidewalk frontage of the operating indoor restaurant, and all other applicable provisions of this article are fulfilled. (Ord. 844, 5-6-2019)

5-1F-3: RESTRICTIONS ON SMOKING AND ALCOHOLIC BEVERAGES: Permittees shall enforce the following prohibitions or restrictions:

- A. Smoking tobacco or using an electronic smoking device at a sidewalk cafe is prohibited.
- B. Alcoholic beverages may be served at sidewalk cafes pursuant to a valid alcoholic beverage control license, and in accordance with State and local alcoholic beverage control laws, provided the following additional requirements are met:
 1. Patron entrance to and egress from the sidewalk cafe shall be controlled by staff of the establishment, who shall continuously monitor the sidewalk cafe during times alcoholic beverages are being sold or consumed, and
 2. No alcoholic beverages may be sold or served to patrons later than eleven o'clock (11:00) P.M., and
 3. Patrons shall not be permitted to consume any beverages within the sidewalk cafe that were not purchased on the premises.
- C. Sidewalk cafes shall be exempt from the requirements of section 3-2-9, "Consumption In Public Places; Intoxication", subsections 3-2-12A (permanent fence), E (yard setbacks), and section 3-2-14 (entrances) of this Code applicable to outdoor alcoholic beverage service. Sidewalk cafes in which alcoholic beverages are served shall be subject to all other requirements of title 3, chapter 2 of this Code. (Ord. 844, 5-6-2019)

5-1F-4: CLEAR WAY:

A sidewalk cafe shall be permitted only where the sidewalk is wide enough to provide a clear way over the sidewalk of not less than five feet (5') in width. No part of a sidewalk cafe or its accessory elements shall obstruct any entrance to or exit from any adjacent structure. (Ord. 844, 5-6-2019)

5-1F-5: TABLES AND CHAIRS, LOCATION AND REQUIREMENTS OF FURNITURE:

All tables and chairs comprising a sidewalk cafe shall be set within the area designated on the Sidewalk Cafe Permit Application and it shall be the responsibility of the permit holder to ensure tables, chairs, and other sidewalk cafe furniture do not encroach upon any part of the sidewalk not designated on his or her sidewalk cafe permit.

All outdoor dining furniture, including tables, chairs, umbrellas, barriers, propane heaters, and authorized accessory items, shall be readily movable. "Readily movable" shall mean that no object as stated above, which is part of the sidewalk cafe, shall be leaded,

cemented, nailed, bolted, power riveted, screwed-in or affixed, even in a temporary manner, to either the sidewalk on which the sidewalk cafe is placed, to the building, or to any other structure which the sidewalk cafe abuts. Umbrellas must be secured with a minimum base of not less than sixty (60) pounds.

Accessory devices for the comfort of patrons, such as air conditioners, fans, propane heaters, amplified sound, or speakers may be used at a sidewalk cafe, provided, however, that any such devices, cables, or wiring are installed and operated in a safe and responsible manner in compliance with applicable codes. Devices with a heating element may be permitted with the approval of the fire inspector.

Sidewalk cafe components, such as tables and chairs, shall be constructed of commercial quality materials for the use(s) in which they are employed in the sidewalk cafe. No components of a sidewalk cafe may be constructed primarily of plastic, plastic resin, or fabric; however, sidewalk cafe components made of dimensional pieces of high-density polyethylene (HDPE), and umbrellas made of fabric are acceptable.

Within one hour of the close of the sidewalk cafe for the night, and on days when the sidewalk cafe is not in operation, tables, chairs, barriers, accessory devices, and all other elements used in the operation of an outdoor cafe shall be either:

A. Removed from the sidewalk and stored indoors, or

B. Orderly secured by means of chains or cables and locks, or other secure means, in a manner that prevents the use of the sidewalk cafe elements to cause injury to persons or property. Secured elements shall be arranged in such a manner as to not obstruct maintenance of the sidewalk. (Ord. 844, 5-6-2019)

5-1F-6: SIGN ORDINANCE REQUIREMENTS:

The provisions of section 8-7-1 of this Code (Spencer Sign Ordinance) shall apply to all sidewalk cafes. (Ord. 844, 5-6-2019)

5-1F-7: DELINEATING SIDEWALK CAFE AREA:

The sidewalk cafe shall be delineated by barriers at least thirty two inches (32") in height separating patrons from the pedestrian traffic on the sidewalk and, if applicable, roadway traffic. Barriers may consist of ropes, chains, planters, fencing, or other sturdy material that physically separates the sidewalk cafe from the adjoining right-of-way. Barriers shall comply with detectability requirements as set forth in the current version of the Americans With Disabilities Act Accessibility Guidelines. Barriers shall be placed so as not to obstruct the required clear way. (Ord. 844, 5-6-2019)

5-1F-8: SERVICE REQUIREMENTS:

A sidewalk cafe shall serve only food and beverages prepared, or stocked for sale, at the adjoining indoor restaurant.

The outdoor preparation of food is prohibited at sidewalk cafes. Sidewalk cafe patrons may obtain food and beverages from within the adjoining indoor restaurant, or staff from the adjoining indoor restaurant may provide table service. The presetting of sidewalk cafe table with utensils, glasses, napkins, condiments, and the like is prohibited. All tables shall be bused promptly, and soiled tableware shall be taken inside for cleaning. No soiled tableware shall be kept in an outdoor busing station. Public street furniture and waste receptacles shall not be used in the operation of a sidewalk cafe. Restrooms for the cafe shall be provided in the adjoining indoor restaurant, and the cafe seating shall be counted in determining the restroom requirements of the indoor restaurant.

Trash and refuse storage for the sidewalk cafe shall be provided within the outdoor dining area, and the permittee shall remove all trash and litter as it accumulates. All exterior surfaces within the sidewalk cafe, including tables, chairs, barriers, and the sidewalk surface, shall consist of materials that are easily cleaned, and shall at all times be kept in a clean and safe condition. (Ord. 844, 5-6-2019)

5-1F-9: DAYS AND HOURS OF OPERATION:

Sidewalk cafes may operate on days whenever fair weather would enhance outdoor dining from the dates of April 1 to October 31 (a "season"). The hours of operation are limited to between six o'clock (6:00) A.M. and eleven o'clock (11:00) P.M. No sidewalk cafe shall be in operation during times when the kitchen of the adjoining restaurant is closed. The City Manager or designee, and any duly sworn peace officer, shall have the power to prohibit the operation of a sidewalk cafe or require the service of alcohol to cease at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades or marches, repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area. To the extent possible, the permittee shall be given prior written notice of any time period during which the operation of the sidewalk cafe will be prohibited by the City, but any failure to give prior written notice shall not affect the right and power of the City to prohibit the cafe's operation at any particular time. (Ord. 844, 5-6-2019)

5-1F-10: SIDEWALK CAFE PERMITS:

A. Findings And Conditions: In connection with granting approval for any sidewalk cafe permit, the City Manager shall make findings that the proposed operation meets the limitations of this article and the Manager may impose such conditions in granting approval as are needed to assure that the proposed operation will meet the operating requirements and conditions as set forth in this article, and to assure that the public safety and welfare will be protected.

B. Term And Renewal: A sidewalk cafe permit may be approved by the City Manager between January 1 and April 1 of each year for a period ending the following October 31. Thereafter, the City Manager, if an extension application is filed, may extend the permit for additional periods, not to exceed one season each, following review and approval of the cafe's operations. The City Manager may make any renewal of a sidewalk cafe permit subject to additional and revised conditions and requirements. Any renewal granted by the City Manager shall not exceed a period of one season. All applications, on forms provided by the City, shall be filed with the City Clerk, who shall refer them to the City Manager. The City Clerk shall maintain the records of permits issued, denied, or revoked.

C. Revocation: The City Manager may revoke or deny a sidewalk cafe permit at any time, without advance notice, for any of the following reasons:

1. It is determined by the Police Chief or Fire Chief that public safety requires such revocation or denial;

2. The application is incomplete;
3. The application is determined to be fraudulent, to include a misrepresentation, or to contain a false statement;
4. The applicant has had a license or permit revoked by the City for any reason within the preceding two (2) years;
5. The permittee has an outstanding arrest warrant in this or any other jurisdiction, or is a fugitive from this or from any other jurisdiction;
6. The permittee's insurance has been canceled;
7. The permittee violates any administrative rules or policies authorized by this division;
8. The permittee violates any provision of this article, other City of Spencer ordinances, or State or Federal laws;
9. It is determined that a need exists to evaluate or ensure the safety of the community as it pertains to sidewalk cafes.

D. Appeal Process: Any party aggrieved by the City Manager's decision to deny, revoke, suspend, or issue a sidewalk cafe permit may appeal the determination to the City Council if, within twenty (20) working days after the decision, the party files a written notice of appeal with the City Clerk. In such an event, a hearing shall be held by the City Council no later than its next regularly scheduled meeting, assuming the appeal is filed in time to allow notice of said appeal in accordance with chapter 21 of the Iowa Code. Upon such hearing, the City Council may, based upon the standards enumerated herein, reverse, affirm or modify in any regard the City Manager's decision. The City Council's decision is the final decision of the City. (Ord. 844, 5-6-2019)

5-1F-11: INSURANCE:

An insurance certificate naming the City of Spencer, its officers, and employees as an additional insured with comprehensive general liability limits in the amount of five hundred thousand dollars (\$500,000.00) combined single limit shall be in full force and effect during the life of a sidewalk cafe permit. The coverage shall be at least as broad as the ISO Form Number CG0001 covering commercial general liability written on an occurrence basis only. A copy of the current insurance certificate shall be maintained on file with the City Clerk. (Ord. 844, 5-6-2019)

5-1F-12: GRAND AVENUE SIDEWALKS:

Public sidewalks adjacent to the primary Highway 71/18 traveled portion are under the joint jurisdiction of the City of Spencer and the Iowa Department of Transportation. All commercial use of public sidewalk rights-of-way on Grand Avenue shall comply with the requirements of the Iowa Department of Transportation as well as the City of Spencer. (Ord. 844, 5-6-2019)

CHAPTER 2

CITY PARKS

SECTION:

5-2-1: Purpose

5-2-2: Commercial Concessions

5-2-3: Speed Limit

5-2-4: Fires

5-2-5: Removal Of Plants, Flowers Or Fruit

5-2-6: Littering

5-2-7: Prohibited Area

5-2-8: Closing Time

5-2-9: Camping

5-2-10: Camping Time Limit

5-2-11: Keg Beer

5-2-12: Rules And Regulations

5-2-13: Enforcement Procedure

5-2-1: PURPOSE:

The purpose of the following chapter is to regulate the use by the public of all city parks, to protect the public in its use of the same and protect city property in city parks. (Ord. 325, 11-18-1985)

5-2-2: COMMERCIAL CONCESSIONS:

No person shall operate any commercial concession in any city owned park without first obtaining from the park board a permit therefor. The park board may issue and revoke such permits. (Ord. 325, 11-18-1985)

5-2-3: SPEED LIMIT:

The maximum speed limit of all vehicles within a city park on drives, roads and highways shall be ten (10) miles per hour, and all driving shall be confined to designated roadways. Off road driving is specifically prohibited in all parks, except all- terrain vehicles

operated by or with the approval of the Spencer police department, Spencer fire department or Clay County sheriff may be operated at speeds in excess of ten (10) miles per hour, may be operated on trails under the jurisdiction of the park board and may be operated elsewhere in city parks.

Whenever the park board shall determine that the speed limit hereinbefore set forth is greater than is reasonable or safe under the conditions found to exist at any place of congestion or upon any part of the park roads, drives or highways, then the park board shall determine and declare a reasonable and safe speed limit which shall be effective when appropriate signs giving notice thereof are erected at such places of congestion or other parts of the park roads, drives or highways. (Ord. 749, 5-20-2013)

5-2-4: FIRES:

No fires shall be built in city parks except in a place provided therefor, and any fire built shall be extinguished when the site is vacated unless the fire is immediately used by some other party, who would then be responsible for extinguishing said fire. (Ord. 325, 11-18-1985)

5-2-5: REMOVAL OF PLANTS, FLOWERS OR FRUIT:

No person shall, in any manner, remove, destroy, injure or deface any tree, shrub, plant, flower or fruit, or disturb or injure any structure of natural attraction, except that upon written permission of the park board, certain specimens may be removed for scientific purposes.

This section shall not apply to activities of city employees when caring for and managing park property. (Ord. 325, 11-18-1985)

5-2-6: LITTERING:

No person shall place any waste, refuse, litter or foreign substance in any area or receptacle in a city park except those provided for that purpose. (Ord. 325, 11-18-1985)

5-2-7: PROHIBITED AREA:

No person shall enter upon any portion of any city park in disregard of official signs forbidding the same, except by permission of the park board. (Ord. 325, 11-18-1985)

5-2-8: CLOSING TIME:

Except by arrangement or permission granted by the park board or its authorized representative, all persons shall vacate city parks as directed by official signs. Areas may be closed at earlier or later hours, of which notice shall be given by proper signs or instructions. (Ord. 325, 11-18-1985; 1991 Code)

5-2-9: CAMPING:

The park board is hereby authorized to fix fees for camping and other special privileges which shall be in such amount as may be determined by the park board upon the basis of cost of providing and reasonable value of such privileges.

No person shall camp in any portion of the city park except in portions prescribed or designated by the park board. (Ord. 325, 11-18-1985)

5-2-10: CAMPING TIME LIMIT:

No camping unit shall be permitted to camp for a period longer than two (2) weeks, and the park board, by appropriate sign or instruction, may provide for a shorter camping limit. (Ord. 325, 11-18-1985)

5-2-11: KEG BEER:

No person shall bring onto park property any beer in kegs having a capacity of seven (7) gallons or more before acquiring a permit from the city clerk or a designated city park employee and paying a ten dollar (\$10.00) fee therefor. (Ord. 325, 11-18-1985)

5-2-12: RULES AND REGULATIONS:

A. Board Duties: The board shall have the power to make rules and regulations for use of parks or the recreational facilities or for the conduct of recreational programs, subject to approval by the city council. Upon approval by the city council a copy of said rules and regulations shall be made available to the public in the office of the city clerk.

B. Penalties: Violation of a board rule which has been approved by the council may be cause for denial of use of a facility or participation in a program, but such denial which extends more than one day may be appealed to the board for hearing. (Ord. 185, 10-20-1975; Ord. 590, 9-15-2003)

5-2-13: ENFORCEMENT PROCEDURE:

A. Violations of the provisions of this chapter and of the rules and regulations adopted by the park board and approved by the city council may be charged and prosecuted by the issuance of a uniform citation or complaint.

B. Violations of the provisions of this chapter and of the rules and regulations adopted by the park board and approved by the city council shall be a scheduled violation punishable by a fine of ten dollars (\$10.00) plus the criminal penalty surcharge required by section 911.2 of the Iowa Code and payment of court costs.

However, if a violation charged involved or resulted in death or serious personal injury of a person, damage to property, or created an immediate threat to the safety of other persons or property, the charging officer may note on the uniform citation: "Court appearance required". If the citation indicates that a court appearance is required, then the violation shall not be a scheduled violation and the court may impose any penalty, or combination of penalties, authorized by law.

C. If any person is issued or is the subject of three (3) or more citations or complaints alleging violations of the provisions of this chapter during any single calendar year, such person shall be barred from the use or occupancy of any city of Spencer park or recreational facility for a period of twelve (12) months from the date of the third incident. Any person so barred may appeal to the park board by filing a written statement of appeal with the city clerk. An appeal does not stay the bar.

The city parks and recreation director shall compile and maintain a list of persons so barred, which shall be filed with the city clerk, and shall notify all such persons of their barred status by personal service or by U.S. mail, return receipt. A barred individual found

using or occupying a city park or recreational facility shall be guilty of "trespass" pursuant to section 6-3-9 of this code. (Ord. 590, 9-15-2003; Ord. 657, 6-18-2007)

CHAPTER 3

NUMBERING BUILDINGS

SECTION:

5-3-1: Numbering Of Buildings

5-3-2: Duty To Number

5-3-3: New Construction

5-3-4: Maintenance Of Numbers

5-3-5: City To Place Numbers

5-3-1: NUMBERING OF BUILDINGS:

All buildings, houses, portions of land and lots adjacent to or abutting upon streets and avenues or public places shall be known and designated by the number on the plat and schedule of building numbers in the city on file in the office of the building and zoning officer, under date of January 1, 1969, or as thereafter added to or amended, and entitled and designated "House Numbers". (1969 Code; 1991 Code)

5-3-2: DUTY TO NUMBER ¹ :

It shall be the duty of the owner of any building facing, abutting or opening upon any street or avenue or other public way in the city to place upon said building suitable numbers not less than two and one-half inches (2¹/₂") in height and be placed on the front side or above the main entrance to every building and shall conform to and be in accordance with the plat and schedule of building numbers referred to in section 5-3-1 of this chapter. (1969 Code)

Notes

- ¹ 1. See also subsection 8-1-1B8 of this code.

5-3-3: NEW CONSTRUCTION:

Any building facing, abutting or opening upon any street, avenue or public way hereafter moved, erected, constructed or completed shall, upon the completion of the construction or moving thereof, be promptly numbered by the owner thereof in accordance with the plat and schedule of building numbers referred to herein. (1969 Code)

5-3-4: MAINTENANCE OF NUMBERS:

It shall be the duty of the owner of any premises required herein to be numbered, to maintain such building numbers in good condition. The number's color shall be in contrast to the background and shall be legible from the street. (1969 Code; 1991 Code)

5-3-5: CITY TO PLACE NUMBERS:

If the owner or lessee of any building shall fail, refuse or neglect to number, maintain numbers or to renumber the same when necessary, the council may cause a notice to be given to comply with this chapter within ten (10) days; said notice to be given by one publication in a newspaper of general circulation in the city. If any building shall not have been numbered or renumbered within ten (10) days after the completed publication of such notice, the council shall cause the same to be done. (1969 Code; 1991 Code)

CHAPTER 4

CEMETERIES ¹

SECTION:

5-4-1: Short Title

5-4-2: Definitions

5-4-3: Grounds

5-4-4: Cemetery Superintendent

Notes

1. Prior ordinance history: Ord. 24, 12-7-1953; Ord. 25, 12-7-1953; Ord. 201, 11-15-1976; Ord. 387, 2-5-1990; Ord. 388, 3-19-1990; 1991 Code; Ord. 424, 8-17-1992.

5-4-1: SHORT TITLE:

This chapter shall be known and may be cited as the *CEMETERY ORDINANCE OF THE CITY OF SPENCER, IOWA*. (Ord. 605, 5-17-2004)

5-4-2: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section:

CITY: The city of Spencer, Iowa.

COLUMBARIUM: A structure that contains individual niches or spaces for the interment of cremains.

GRAVESITE: A platted individual burial site in the ground of a Spencer cemetery.

INTERMENT SPACE: A defined space designed and intended for the interment of human remains, including gravesites, lots, spaces in the mausoleum, or spaces in a columbarium.

LOT: A platted portion of the ground in a Spencer cemetery containing eight (8) to ten (10) gravesites in Riverside cemetery and six (6) gravesites in North Lawn cemetery.

MAUSOLEUM: The structure located at the Riverside cemetery that contains aboveground individual interment spaces. (Ord. 605, 5-17-2004)

5-4-3: GROUNDS:

A. Control: The cemetery grounds owned by the city shall be supervised by the cemetery superintendent, subject to the supervision of the parks and recreation director and the control of the city council.

B. Rules; Regulations: The following rules and regulations for the care and management of the cemetery grounds are hereby adopted:

1. Sale By Cemetery Superintendent: Interment spaces in the cemeteries shall be purchased from the superintendent, or his designees, who shall keep plats of the spaces and furnish necessary information with regard thereto.

2. Sale By Owner: Persons purchasing interment spaces in the cemeteries shall have the spaces they purchase secured to them, their family and heirs, for an interment place and for the interment of such other persons as they may choose to admit, but the owner of any space cannot make a conveyance thereof to any person without written approval of the city.

3. Payment For Interment Spaces: Full payment for interment spaces, including perpetual care, is to be made in advance to the city clerk, who shall issue a certificate for the same.

4. Transfers: All transfers or subdivisions of cemetery interment spaces shall be by certificate from the city, which shall be recorded with the city clerk in a record kept for that purpose.

5. Survey Of Interment Spaces: No interment space in the cemeteries shall be sold until it has been surveyed and platted, or otherwise designated, and the plat or designation has been approved by the city council.

6. Grade Of Lots: The grade of avenues, walks and lots shall be established by the council, and no lot shall be filled above the established grade .

7. Payment: No improvement will be allowed upon any interment space or interment made therein until full payment has been made therefor.

8. Corners Marked: All lots shall bear one iron corner marker with the number of such lot marked thereon.

9. Erection Of Monuments: The proprietor of each gravesite shall have the right to erect any proper headstone, monument or memorial thereon, subject to the approval of the superintendent.

10. Planting On Gravesites: No trees, shrubs, or other plantings may be planted by the gravesite owner. Such plantings may be done only by cemetery personnel under the direction of the superintendent. No trees, shrubs or other plantings may be removed by the gravesite owner without prior approval of the superintendent.

11. Enclosures On Gravesites: Enclosures around gravesites are not permitted, and the superintendent is authorized to remove any enclosure heretofore erected, if desired by the owner, and to remodel the gravesite in conformity with these regulations, at the expense of the owner.

12. Foundations And Construction:

a. The foundations for all monuments, markers or other aboveground structures, except veterans' plaques issued by the United States veterans' administration, permitted at the Spencer municipal Riverside cemetery and the Spencer North Lawn cemetery shall meet the following specifications:

(1) Foundations shall be constructed of solid stone or concrete, either precast or poured in place.

(2) Foundations for markers or comparable small structures shall be constructed on a bed of sand or pebbles and shall be not less than four inches (4") in depth.

(3) Monument foundations shall be not less than twelve inches (12") in depth of poured concrete, if capped with a precast

foundation, or not less than sixteen inches (16") in depth, if constructed entirely of poured concrete.

(4) The top surface of all foundations shall be level.

(5) The surface area of each foundation shall be of sufficient size that the foundation extends not less than five inches (5") in all dimensions from the monument, marker or other structure.

b. All monuments, headstones, statuary or other memorials erected in the cemeteries shall be of real stone, marble, bronze or other material equally substantial and desirable, in the judgment of the superintendent, and shall be kept in good condition and repair.

c. Construction of foundations shall be accomplished by or under the direction of the superintendent. Persons and corporations regularly engaged in and experienced in the construction of monument foundations may construct such foundations in the Spencer municipal cemeteries, but such construction shall be subject to the inspection and approval of the superintendent. The superintendent shall cause the location of all foundations to be staked or marked, and all construction shall be contained within the designated area.

d. Any person or corporation permitted to construct foundations or to perform other work in the municipal cemeteries shall, in consideration of the city's grant of access, bear full responsibility and liability for any damage occasioned to any property within the city arising out of the contractor's activities. Private contractors shall hold the city, and any lot owner, harmless and free from all costs, loss, or expense, including attorney fees, with regard to any personal injury or property damage arising out of the activities of the private contractor.

Before being permitted to perform construction activities in the cemeteries, each private contractor shall provide to the city a certificate of insurance issued by a liability insurance company authorized to do business in the state of Iowa, which certificate shall confirm that the contractor has general liability insurance in force providing limits of coverage of at least three hundred thousand dollars (\$300,000.00) for any personal injury or property damage arising from a single event or occurrence.

13. Removal Of Unused Material: Material for stone or marble work will not be allowed to remain in the cemeteries longer than shall be strictly necessary, and refuse or unused material must be removed as soon as the work is completed. In case of neglect, such removal will be made by the superintendent at the expense of the interment space owner and the contractor, who shall be severally responsible.

14. Hedges, Fences, Etc.: Hedges, fences and wooden trellises are prohibited.

15. Removal Of Unsightly Trees: If any trees or shrubs situated upon any lot shall by means of their roots, branches or otherwise become detrimental to adjacent interment spaces or avenues, or become unsightly or inconvenient to passersby, it shall be the duty of the superintendent to enter upon such interment space and remove such trees and shrubs or such parts thereof as are detrimental, unsightly or inconvenient. If any interment space or structure thereon becomes unsightly through neglect of the owner, it shall be the duty of the superintendent to enter upon such interment space, to put the same in proper order and repair, and to make a reasonable charge for the removal of such structure, trees or shrubs, and the repairs on any interment space, which charge shall be paid by the interment space owner when notified; and until such charge shall be paid by such interment space owner, he shall be barred from further use of said interment space.

16. Superintendent To Control All Work: All workmen employed in the construction of vaults or tombs, erection of monuments, etc., shall be subject to the control and direction of the superintendent. All materials brought into the cemeteries to be used in improving lots must be transported and deposited within the cemeteries in such manner as the superintendent may direct, and all earthwork and rubbish accumulated in improving such lots must be removed under his direction, at the expense of the proprietor of such lot, and any workman failing to conform to this regulation will not be permitted afterwards to work in the cemeteries.

17. Soliciting And Advertising Prohibited: The soliciting for contracts or orders for monuments, headstones, memorials or other work will not be allowed in the cemeteries. Signs, notices or advertisements of contractors, stonecutters, undertakers or any other person will not be permitted upon or within the cemetery grounds.

18. Care Of Lots Supervised: All work in the care of lots shall be done under the supervision of the superintendent. The avenues and walks will be kept in good condition and the lots clean, but any extra care or work, such as planting trees, cultivating flowers or other extraordinary work on lots, will only be done at the owner's expense and under the direction of the superintendent.

19. Opening Interment Spaces: Interment spaces shall be opened and closed only by the superintendent or his designated representative. Excavation in gravesites for the placement of vaults shall be not less than five feet (5') in depth, and there shall be at least two feet (2') of earth cover over all vaults. No mounds shall be raised upon any gravesite above the natural surface of the ground. Whenever interments are to be made, the superintendent shall be given eight (8) working hours' notice during summer months and twelve (12) working hours' notice during the winter months in order that he may have interment spaces in readiness.

20. Charges: The city council shall have the power to enact a schedule of charges for the opening and closing of graves and other cemetery services and permits.

21. Permission For Interment: No grave will be opened upon any lot, or interment allowed, except upon order or permission of the owner of said interment space.

22. Compliance With Law Prior To Interment: No interment will be permitted in the cemeteries, nor in any vault therein, unless the Superintendent is furnished with evidence showing full and complete compliance with the law governing and relating to interments.

23. Human Remains Only: Only the remains of human beings may be interred in City cemeteries. Interment of the remains of pets or other animals is not permitted.

24. Interments Permitted: In any single gravesite, the following interments are permitted:

- a. A typical interment of the remains of one (1) human being with a casket and vault.
 - b. Two (2) infants or a parent and infant; contemporaneous interments in a single casket. The term infant shall be a human being not more than six (6) months in age.
 - c. The cremains of no more than two (2) human beings in separate containers and vaults; contemporaneously interred.
 - d. Cremains may be interred in combination with the cremains of another human being. The combined cremains interred shall be considered two (2) burials; no other burial in the gravesite will be permitted. Any disinterment shall be a mutual disinterment of the combined cremains.
 - e. The cremains of two (2) human beings in separate containers are permitted in a mausoleum space. Combined cremains shall be interred contemporaneously.
 - f. There are three (3) types of columbarium niches available at Spencer Riverside Cemetery, a single space and two (2) types of double spaces. Only the remains of a single human being may be placed in a single niche. The remains of two (2) human beings may be placed in either type of double niche. Combined cremains shall be interred contemporaneously.
25. Disinterment: No disinterment will be allowed without the special permission of the Superintendent, and such disinterments shall be allowed only when he has been furnished with proof that the law governing disinterments has been fully complied with.
26. Funeral Processions: All funeral processions, or other processions, while within the grounds, will be subject to the direction and control of the Superintendent. Undertakers must arrange the time of funerals as to be out of the grounds before dark.
27. Visitors: Visitors will be allowed access to the cemeteries at all proper times, and must observe all rules now in force or that may be adopted for the regulation of the grounds.
28. Injury To Flowers, Etc.: Visitors must keep on the avenues or walks and not pluck or injure flowers, plants, shrubs, or trees, nor remove anything from the grounds.
29. Vehicles In Cemeteries: Motor vehicles and bicycles operated on cemetery grounds shall be restricted to a speed not greater than fifteen (15) miles per hour. Vehicles shall be operated with due care and only upon cemetery avenues. Snowmobiles and other recreational vehicles, except bicycles and motorcycles, are prohibited on cemetery grounds.
30. Horses Not Permitted: Horses will not be permitted in the cemeteries, except in a funeral procession.
31. Shooting In Cemeteries: Shooting shall not be allowed, and no firearms shall be permitted within the grounds, except at military services.
32. Children Alone Not Permitted: Children twelve (12) years of age and under will not be permitted upon cemetery grounds, unless accompanied by a parent or guardian.
33. Dogs Not Permitted: Dogs are not permitted within the grounds.
34. Waste And Refuse: No person will be permitted to throw any wastepaper, tin cans or other refuse upon the grounds of the cemeteries.
35. Liability For Loss Of Items: The City shall not be liable for loss of planters, containers, flowers or any other type of memorial.
36. Appeals: Any person aggrieved by a decision or action of the Superintendent shall have the right, upon proper notice to the Superintendent, City Council and other interested persons, to be heard before the Council, which shall determine the propriety of such decision or action by the Superintendent. This provision shall not affect the exercise of any other legal rights held by persons so aggrieved.
37. Extra Work On Interment Space: Owners of interment spaces may have extra work or repairs done upon their spaces by leaving a written order with the Superintendent justifying the work they wish to have performed. The owner will be given an estimate of the cost of such work and, upon the payment thereof in advance, the work, insofar as it is consistent with the rules and regulations herein adopted, will be performed. In the event the cost of the work exceeds the estimate, the owner will be billed for the excess.
38. Other Rules: The City Council shall have the power to alter avenues and walks and to make such other rules and regulations as it may deem requisite and proper.
39. Vaults: All interments in interment spaces shall be accomplished by the placement of a vault made of concrete, metal or other suitable material approved by the Superintendent.
40. Columbariums: Columbariums shall remain sealed or locked at all times except for inurnment services or except as prearranged with the Cemetery Superintendent. The sealing or locking mechanism to secure the columbarium shall be approved by the Superintendent. The Superintendent will be the sole keeper of columbarium access devices. No key locks shall be permitted.
- C. Enforcement Of Rules: It shall be the duty of the Superintendent to enforce the rules and regulations provided herein. (Ord. 605, 5-17-2004; Ord. 790, 10-5-2015; Ord. 810, 4-17-2017)

Notes

- ¹ 1. See chapter 1, article C of this title.

5-4-4: CEMETERY SUPERINTENDENT ¹ :

- A. Custody Of Plats: The Superintendent or his designee shall have the custody of all plats and surveys of the cemeteries and all

other papers showing the locations, measurements and boundaries of the lots, mausoleum, columbarium, streets, alleys and cemetery grounds.

B. Sale Of Interment Spaces: The Superintendent shall supervise and approve the sale of all interment spaces. Interment spaces shall be sold on such terms and at such prices as the City Council may establish by resolution. Payment shall be made to the City Clerk, who shall keep accurate records of such sales.

C. Records: The City shall keep accurate records of the owners and descriptions of interment spaces.

D. Supervision Of Buildings; Property: The Superintendent shall have supervision of all buildings, machinery and waterworks systems of the cemeteries. When repairs are necessary, it shall be the Superintendent's duty to employ suitable persons to make such repairs, and he shall report the same and the cost thereof to the Council. He shall have charge of the fences and the gates of the cemeteries, as well as the admission of vehicles thereto. He shall supervise interment and disinterment; shall have general supervision over the erection of monuments and tombstones; the grading of lots; the streets and alleys; the planting of trees, shrubbery, grasses, flowers and plants, and the care and preservation thereof; and shall perform such other duties as may be required by the City Council.

The Superintendent shall keep a complete inventory of the personal property of the City in his custody and control. His records shall be submitted to the City Council, or to a committee thereof, at any time for examination; and he shall make a report of the doings of his office whenever required by the City Council. (Ord. 605, 5-17-2004)

Notes

- ¹ 1. See also subsection 1-7-2B of this Code.

CHAPTER 5

TREES AND SHRUBS ¹

SECTION:

5-5-1: Short Title

5-5-2: Definitions

5-5-3: Planting, Trimming, Spraying; Permits Required

5-5-4: Tree Removal

5-5-5: Permits; Contents Of Application

5-5-6: Permits; Standards Of Issuance

5-5-7: Planting Regulations

5-5-8: Duties Of Property Owners And City To Prune, Trim And Remove

5-5-9: Abuse Or Mutilation Of Public Trees

5-5-10: Pervasive Disease

5-5-11: Right To Inspect Trees

5-5-12: Obstruction Of Enforcement

5-5-13: Commercial Tree Trimmer's License

5-5-14: Penalty; Municipal Infraction

5-5-15: Administrative Appeal

Notes

- ¹ 1. See also section 4-1-1 and subsection 4-1-2A of this code.

5-5-1: SHORT TITLE:

This chapter shall be known and may be cited as the *TREE ORDINANCE OF THE CITY OF SPENCER, IOWA*. (Ord. 652, 4-2-2007)

5-5-2: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section:

ABUTTING PROPERTY: Real property that has a common boundary with a city street or other public property. That portion of "right of way green space" for which the abutting property owner is responsible or may apply for a license to plant and maintain a tree is that portion of the right of way green space bounded by extensions of the property boundaries of the abutting private property to the curb line or traveled portion of the street.

CITY: The city of Spencer, Iowa.

DIRECTOR: The city of Spencer parks and recreation director, the parks superintendent, or their designees.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

PLANTING STANDARDS: The standards promulgated by the director governing the planting, preservation, fertilization and care of trees planted on city property.

PROPERTY OWNER: The contract purchaser, if there is one of record; otherwise, the record holder of legal title.

PRUNING STANDARDS: The standards promulgated by the director governing the pruning, trimming and cutting of trees and shrubs located on city property.

RIGHT OF WAY GREEN SPACE: The property between a property owner's lot or property line and curb or the traveled portion of the public street and all other nontraveled portions of a public street right of way.

SHRUB: A woody plant grown for decorative screening or enclosure purposes not exceeding a height of six feet (6') above ground level. The definitions of a "shrub" and a "bush" shall be the same and are interchangeable.

STREET: The entire right of way, from property line to property line, of all public traveled ways, streets and alleys.

TREE: A woody growth with an expected height in excess of six feet (6').

UTILITY COMPANY: A public or privately owned electric, natural gas or communications provider legally providing utility services in the city of Spencer. (Ord. 652, 4-2-2007)

5-5-3: PLANTING, TRIMMING, SPRAYING; PERMITS REQUIRED:

A. No person shall plant, remove, injure, damage or destroy any tree or shrub on any street or city owned property without first making application and procuring a permit from the director. The person receiving the permit shall abide by the applicable standards promulgated by the director.

B. Commercial tree trimmers licensed by the city, and the owners or persons in control of adjacent property, may trim and prune trees or shrubs on city property without a permit.

C. If any portion of a tree or a shrub is on a street right of way or other public property, this section shall apply.

D. Utility companies are exempt from permits to trim or prune trees and shrubs, but are required to obtain a permit to plant or remove trees.

E. No person shall spray or apply any pesticide, herbicide or other noxious spray or powder on any property within the city, whether or not owned by the city, without first making application to and procuring a permit from the director. The previous sentence notwithstanding, the owner or person in control of private property, or a licensed commercial chemical applicator, may apply appropriate chemicals to that private property and to abutting public right of way without a permit. (Ord. 688, 5-18-2009)

5-5-4: TREE REMOVAL:

No person shall remove a tree on any street or city owned property without first making application and procuring a permit from the director. Application for the permit must be filed at least fourteen (14) days prior to the planned date of removal. The applicant shall clearly mark the tree to be removed with flagging ribbon or other means that is not injurious to the tree.

Tree removal will not be approved unless good cause is established. "Good cause" shall include: a tree that is so diseased or damaged that removal is necessary; circumstances in which growth of the tree will damage or substantially interfere with public or private improvements; or circumstances where construction on the adjacent lot requires removal for driveway construction.

If tree removal is approved for good cause other than disease or damage or to prevent damage to public or private improvements, the permit shall:

A. Require the applicant to pay all the costs incurred for removal of the tree, including the stump, to a minimum depth of six inches (6") below the ground surface. The area will be cleaned by hand raking to remove all branches, leaves and debris caused by the removal. The area excavated in order to remove the stump shall be filled with good, clean topsoil and seeded or sodded.

B. If the value of the removed tree is estimated by the director to be not greater than five hundred dollars (\$500.00), the applicant shall be required to purchase a balled and burlapped replacement tree having a minimum trunk diameter of not less than two inches (2") as measured at the base of the trunk. The species of tree and the time and place of planting shall be selected by the director. The planting of the replacement tree shall be accomplished under the director's supervision.

C. If the value of the tree to be removed is estimated by the director to exceed five hundred dollars (\$500.00), the applicant shall be required to reimburse the city for the value of the removed tree at a rate set in the schedule of tree values adopted by the director.

If a tree is removed in violation of this section, the responsible party or parties shall be required to comply with the provisions of subsection A of this section and either subsection B or C of this section and shall also be subject to the provisions of section 5-5-14 of this chapter. Persons performing a contract with the city of Spencer shall be exempt from the limitations and requirements of this section and the permit requirements of section 5-5-5 of this chapter. (Ord. 652, 4-2-2007; Ord. 791, 10-19-2015)

5-5-5: PERMITS; CONTENTS OF APPLICATION:

The applicant shall state the number, location and species of trees or shrubs to be treated, sprayed, preserved, pruned, removed, cut or otherwise disturbed; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the director shall find reasonably necessary to a fair determination of whether a permit should be issued. (Ord. 652, 4-2-2007)

5-5-6: PERMITS; STANDARDS OF ISSUANCE:

The director shall issue the permits provided for in section 5-5-3 or 5-5-5 of this chapter if, in his judgment, the proposed work is desirable and the proposed methods are of a satisfactory nature. Any permit granted shall contain a definite date of expiration. Any permit shall be void if its terms are violated. A fee of twenty dollars (\$20.00) shall be imposed for each permit issued under this section, to be paid to the city clerk before issuance of the permit. (Ord. 652, 4-2-2007)

5-5-7: PLANTING REGULATIONS:

- A. The planting of shrubs on any city right of way green space is prohibited.
- B.
 1. Trees may be planted in an area at least three feet by three feet (3' x 3') which is free of underground and overhead utilities.
 2. Trees may not be planted closer than ten feet (10') from right of way structures, including fiber vaults; fire hydrants; transformers; secondary, communications, and meter pedestals; any other structures; and underground utilities installed perpendicular to the right of way.
 3. Trees shall be planted a minimum of twenty feet (20') from streetlights.
 4. Trees shall not be planted closer than twenty five feet (25') from another street tree, unless buffering is required as approved by the city.
 5. Trees shall be a minimum of one inch (1") in diameter at six inches (6") above ground level.
 6. Trees shall not be planted closer than ten feet (10') from driveways or alleys.
 7. Trees shall not be planted in the triangular area defined by the point of intersection of the traveled portions or curbs of two (2) intersecting streets and points thirty feet (30') in distance measured along the curbs or traveled portions of the intersecting streets.
- C. No persons shall plant the following tree species on any public property: cotton bearing poplar trees, cottonwood, box elder, Siberian elm, Russian olive, silver maple, tree of heaven, mulberry, willow, evergreen or ash varieties. A list of preferable tree species to be planted in the right of way green space is available from the city parks department.
- D. A property owner who desires to plant a tree in adjacent public right of way, in accordance with this section, shall make written application on a street tree permit application form provided by the city and shall submit the street tree permit application with a site plan for the planting location and a twenty dollar (\$20.00) application fee to the city clerk. The applicant shall also place a wooden stake painted white at the proposed planting site.

The public works and park and recreation departments of the city will review the street tree permit application and may approve, modify, or deny. (Ord. 652, 4-2-2007; Ord. 688, 5-18-2009; Ord. 765, 7-7-2014)

5-5-8: DUTIES OF PROPERTY OWNERS AND CITY TO PRUNE, TRIM AND REMOVE:

- A. **Trees Up To Fourteen Feet:** In all residentially zoned areas of the city of Spencer, it is the duty of the owner of any property abutting a street upon which there may be trees or shrubs, to prune such trees or shrubs up to a height of fourteen feet (14') such that they will not obstruct or shade the streetlights or obstruct the passage of pedestrians or vehicles on sidewalks or street; or obstruct the vision of traffic signs; or obstruct the view of any street intersection. Overhanging branches shall be at least fourteen feet (14') above the surface of the street and at least ten feet (10') above the surface of the sidewalk or right of way green space.
 1. Such owner shall also remove from such trees all dead, decayed or broken limbs or branches up to fourteen feet (14') above the ground that overhang any public highway, street, alley or public place, so that the same cannot fall on the sidewalk, street, alley or other public highway.
 2. All abutting property owners shall trim and maintain trees and shrubs located on private property such that no part overhangs any public property at a height below ten feet (10') nor overhangs any street at a height of less than fourteen feet (14').
 3. Property owners shall also remove all diseased trees and dead or dying limbs from trees located on their property, except a forested property of any area of more than two (2) acres where individual tree maintenance is not practical.
- B. **Action Compelled:** If the abutting property owner fails to trim adjacent trees or shrubs, the city may serve notice on the abutting property owner requiring that such action be taken within thirty (30) days. If such action is not taken within that time, the city may perform the required action and assess the costs against the abutting property owner for collection in the same manner as a property tax.
- C. **City's Duties (Above 14 Feet):** The city shall be responsible for the pruning, trimming and removal of dead or diseased trees located on public property or streets as to that portion of any tree more than fourteen feet (14') above the ground.
- D. **Tree Roots:** The city shall also be responsible for the removal or trimming of roots from trees located on public property that have displaced or raised portions of the public sidewalk. The public works department shall notify the parks and recreation director when a permit is requested to repair or construct a public sidewalk. The director will then investigate the circumstances and, if necessary, arrange for roots to be removed in a timely manner.
- E. **Highway Right Of Way Exemption:** The provisions of this section do not apply to trees in the Highway 71 or Highway 18 right of way. These trees shall be maintained by the city. (Ord. 652, 4-2-2007)

5-5-9: ABUSE OR MUTILATION OF PUBLIC TREES:

- A. Unless specifically authorized by the director, no person shall intentionally damage, cut, carve, transplant or remove any tree or

shrub; attach any rope, wire, nails or other contrivance to any tree or shrub; allow any gaseous, liquid or solid substance which is harmful to such trees or shrubs on public property to come in contact with them; or to impede the free entrance of water or air to the roots; or to set fire or to permit any fire to burn when such fire and heat thereof will injure any portion of any tree or shrub on public property.

B. No spurs or climbers that injure the bark of a tree on public property shall be used as an aid to climbing such tree, except when such tree is to be removed.

C. No person shall "top" a tree that is located on a public street or other public property, except as required because of storm or ice damage or for the protection of utility wires. (Ord. 652, 4-2-2007)

5-5-10: PERVASIVE DISEASE:

In accordance with state law, any owner, occupant or person in charge of any property shall remove, at his own expense, any tree, brush, wood or debris infected with pervasive disease found thereon when so notified by the director. Such owner, occupant or person shall be given written notice by the director to remove said trees, brush, wood or debris within thirty (30) days from the date of such written notice.

If such owner, occupant or person fails to comply with said notice within thirty (30) days of receipt thereof, the city council may cause the same to be removed and the cost assessed against the property in the following manner:

A. The city council shall direct its agents or employees to remove same and to keep an accurate account of the expense incurred. The expense account shall be fully itemized, verified and filed with the city clerk. Such expenses shall be paid by the city.

B. The city clerk shall mail a statement of said total cost to such owner, occupant or person failing to comply with said notice by certified mail, without return receipt, addressed to the last known address of same, and if the amount shown by the statement has not been paid within one month, the city clerk shall certify such cost to the county auditor, and it shall then be collected with and in the same manner as general taxes. (Ord. 652, 4-2-2007)

5-5-11: RIGHT TO INSPECT TREES:

The agents or employees of the city shall have access at reasonable times to all trees, brush, wood or debris for the purpose of inspecting or examining the same and carrying into effect the provisions of this chapter. (Ord. 652, 4-2-2007)

5-5-12: OBSTRUCTION OF ENFORCEMENT:

It shall be unlawful for any person to hinder, obstruct or otherwise interfere with the agents or employees of the city while they are engaged in carrying out the provisions of this chapter. (Ord. 652, 4-2-2007)

5-5-13: COMMERCIAL TREE TRIMMER'S LICENSE:

No persons shall engage in the practice of tree trimming or removal for compensation in the city of Spencer unless licensed pursuant to this section. A license will be issued by the city clerk upon submission of a written application on forms obtained from the clerk, which application must be approved by the parks and recreation director, and upon fulfilling the fee, bonding and insurance requirements as specified herein. The licensing period shall be from February 1 to January 31. A commercial tree trimmer's license may be applied for and issued to a business entity and, when so issued, shall cover all employees of the entity. Utility companies shall be exempt from the requirements of this section. Persons performing a contract with the city of Spencer shall be exempt from the requirements of this section as to the trimming and removal of trees.

A. Fee: The license fee for a tree trimmer's license for the licensing period, or any part thereof, shall be fifty dollars (\$50.00).

B. Surety Bond: A surety bond in the amount of two thousand dollars (\$2,000.00) must be filed in favor of the city. Such bond must run throughout the licensing period and shall be conditioned upon the faithful performance of all obligations required by ordinance, rules or regulations of the city.

C. Insurance: Any person licensed as a commercial tree trimmer must file proof of liability insurance in the amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate liability with the city clerk. The certificate must state that there is no exclusion for tree trimming, pruning and removal. The licensee must agree, in writing, on forms provided by the clerk to hold the city harmless from any and all damages claimed by reason of negligence, incompetence or omission on the part of such person in the performance of their work.

D. Training And Experience: The application shall include a statement of the applicant's training and experience in the field of arboriculture sufficient to establish, to the satisfaction of the parks and recreation director, that the applicant has sufficient training and experience to warrant the issuance of the license. The application shall include a certification that the applicant has received not less than three (3) hours of arboriculture continuing education in the previous twelve (12) months.

E. Notice Of Violations: Whenever it appears to the director that any licensee has created or maintained any condition that is dangerous, unsafe, unsanitary or a menace to life, health or property, or has done business without proper license or permit, the director may mail or personally deliver an order, in writing, to the licensee directing the licensee to correct the defect or omission within twenty (20) days from the receipt of the notice. Noncompliance may result in revocation of a commercial tree trimmer's license.

F. Cleanup: Each licensee shall promptly clean up the work site and dispose of all tree trunks, limbs, branches, twigs or brush. (Ord. 652, 4-2-2007; Ord. 688, 5-18-2009; Ord. 765, 7-7-2014; Ord. 791, 10-19-2015)

5-5-14: PENALTY; MUNICIPAL INFRACTION:

A violation of any provision of this chapter shall constitute a simple misdemeanor and shall be punished as provided in section 14-1 of this code. A violation of the provisions of this chapter may also result in the commencement of a municipal infraction proceeding by the city against the violator pursuant to title 1, chapter 4, article A of this code. (Ord. 652, 4-2-2007)

5-5-15: ADMINISTRATIVE APPEAL:

Any property owner or applicant for a permit pursuant to the provisions of this chapter who is aggrieved by the decision of the director may appeal the decision to the Spencer city council. An appeal shall be filed in writing and must be actually received by the city not

later than thirty (30) days after the action or decision appealed.

The appeal shall be heard by the council in an informal proceeding. The appellant shall be provided reasonable opportunity to submit written and oral support for the appellant's position. The council shall issue a written decision within thirty (30) days of the hearing on the appeal.

Failure to properly exhaust the administrative remedy provided in this section shall constitute a bar to judicial relief. (Ord. 652, 4-2-2007)

CHAPTER 6

PARADES AND MOTORCADES

SECTION:

5-6-1: Definitions

5-6-2: Permits

5-6-3: Application for Permit

5-6-4: Issuance or Denial of Permit

5-6-5: Contents of Permit

5-6-6: Officials to be Notified

5-6-7: Appeal Procedure

5-6-8: Prohibited Acts

5-6-9: Revocation of Permit

5-6-1: DEFINITIONS:

MOTORCADE: An organized procession containing twenty five (25) or more vehicles, except funeral processions, upon any public street, sidewalk or alley.

PARADE: Any march or procession consisting of people, animals or vehicles or combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations or controls. (Ord. 328, 2-3-86)

5-6-2: PERMITS:

It shall be unlawful for any person to conduct a parade or motorcade in or upon any public street, sidewalk or alley in the City or knowingly participate in any such parade or motorcade unless and until a permit to conduct such parade or motorcade has been obtained from the Chief of Police or, as hereinafter provided, from the City Council. (Ord. 328, 2-3-86)

5-6-3: APPLICATION FOR PERMIT:

Any person who wants to conduct a parade or motorcade shall apply to the Chief of Police for a permit at least thirty (30) days in advance of the date of the proposed parade or motorcade. The Chief of Police may in his discretion consider any application for a permit to conduct a parade or motorcade which is filed less than thirty (30) days prior to the date such parade or motorcade is to be conducted. The application for such permit shall be made in writing on a form approved by the Chief of Police. In order that adequate arrangements may be made for the proper policing of the parade or motorcade, the application shall contain the following information:

- A. The name of the applicant, the sponsoring organization, the parade or motorcade chairman and the addresses and telephone numbers of each.
- B. The purpose of the parade or motorcade, the date when it is proposed to be conducted, the location of the assembly area, the location of the disbanding area, route to be traveled and the approximate time when the parade or motorcade will assemble, start and terminate.
- C. A description of the individual floats, marching units, vehicles, bands, including a description of any sound amplification equipment used.
- D. Such other information as the Chief of Police may deem reasonably necessary. (Ord. 328, 2-3-86)

5-6-4: ISSUANCE OR DENIAL OF PERMIT:

A. Standards for Issuance: The Chief of Police shall issue a parade or motorcade permit conditioned upon the applicant's written agreement to comply with the terms of such permit unless the Chief of Police finds that:

1. The time, route and size of the parade or motorcade will disrupt to an unreasonable extent the movement of other traffic.
2. The parade or motorcade is of a size or nature that requires the diversion of so great a number of police officers of the City to properly police the line of movement and the area contiguous thereto that allowing the parade or motorcade would deny reasonable police protection to the City.
3. Such parade or motorcade will interfere with another parade or motorcade for which a permit has been issued.

B. Standards for Denial: The Chief of Police shall deny any application for a parade or motorcade permit and notify the applicant

of such denial where:

1. The Chief of Police makes any finding contrary to the findings required to be made for the issuance of a permit.
2. The information contained in the application is found to be false or nonexistent in any material detail.
3. The applicant refuses to agree to abide by or comply with all conditions of the permit. (Ord. 328, 2-3-86)

5-6-5: CONTENTS OF PERMIT:

In each permit, the Chief of Police shall specify:

- A. The assembly area and time therefor;
- B. The starting time;
- C. The minimum and maximum speeds;
- D. The route of the parade or motorcade;
- E. What portions of street to be traversed may be occupied by such parade or motorcade;
- F. The maximum number of platoons or units and the maximum and minimum intervals of space to be maintained between the units of such parade or motorcade;
- G. The maximum length of such parade or motorcade in miles or fractions thereof;
- H. The disbanding area and disbanding time;
- I. The number of persons required to monitor the parade or motorcade;
- J. The number and type of vehicles, if any;
- K. The material and maximum size of any sign, banner, placard or carrying device therefor;
- L. The materials used in the construction of floats used in any parade shall be of fireretardant materials and shall be subject to such requirements concerning fire safety as may be determined by the Fire Chief;
- M. That permittee advise all participants in the parade or motorcade either orally or by written notice, of the terms and conditions of the permit; prior to the commencement of such parade or motorcade;
- N. That the amplification of sound permitted to be emitted from sound trucks, or bullhorns be fixed and not variable;
- O. That the parade or motorcade continue to move at a fixed rate of speed and that any wilful delay or wilful stopping of said parade or motorcade, except when reasonably required for the safe and orderly conduct of the parade or motorcade, shall constitute a violation of the permit, and;
- P. Such other requirements as are found by the Chief of Police to be reasonably necessary for the protection of persons or property.

All conditions of the permit shall be complied with so far as reasonably practicable. (Ord. 328, 2-3-86)

5-6-6: OFFICIALS TO BE NOTIFIED:

Immediately upon the granting of a permit for a parade or motorcade, the Chief of Police shall send a copy thereof to the following:

- A. The Mayor.
- B. The Fire Chief.
- C. The Public Works Director. (Ord. 328, 2-3-86)

5-6-7: APPEAL PROCEDURE:

A. Upon a denial by the Chief of Police of an application made pursuant to Section 5-6-3 of this Chapter, the applicant may appeal from the determination of the Chief of Police within five (5) days thereafter to the City Council by filing a written notice of appeal for hearing by the City Council at its next meeting. Upon such appeal, the City Council may reverse, affirm or modify in any regard the determination of the Chief of Police.

B. In the event an application is not filed within the required time, as specified in Section 5-6-3 of this Chapter, the applicant may request a waiver of such requirement by the City Council at its next regular meeting, or at a special meeting which may be called prior thereto by said City Council to consider such matter, and the City Council, if it finds unusual circumstances and in the exercise of its sound discretion may waive such requirement. (Ord. 328, 2-3-86)

5-6-8: PROHIBITED ACTS:

A. Parade or Motorcade for Commercial Purpose Prohibited: No permit shall be issued authorizing the conduct of a parade or motorcade which the Chief of Police finds is proposed to be held for the sole purpose of advertising any product, goods, wares, merchandise or event and is designed to be held purely for private profit.

B. Interference with Parade or Motorcade: No person shall knowingly join or participate in any parade or motorcade conducted under permit from the Chief of Police in violation of any of the terms of said permit, nor knowingly join or participate in any permitted parade or motorcade without the consent and over the objection of the permittee, nor in any manner interfere with its progression or orderly conduct. (Ord. 328, 2-3-86)

5-6-9: REVOCATION OF PERMIT:

Any permit for a parade or motorcade issued pursuant to this Chapter may be summarily revoked by the Chief of Police at any time when by reason of disaster, public calamity, riot or other emergency, the Chief of Police determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or by certified mail. (Ord. 328, 2-3-86)

TITLE 6

PUBLIC SAFETY AND FIRE PREVENTION

CHAPTER 1

POLICE DEPARTMENT

SECTION:

6-1-1: Organization

6-1-2: Appointments

6-1-3: Duties Of Chief Of Police

6-1-4: Records; Reports

6-1-5: Call Of Posse

6-1-6: Assistant Chief Of Police

6-1-7: Rules; Regulations

6-1-8: Discipline

6-1-9: Assigning Extra Duties

6-1-10: Powers; Duties Of Members

6-1-11: Giving Of Testimony

6-1-12: Investigation Of Accidents

6-1-13: Jurisdiction

6-1-1: ORGANIZATION:

The police department shall consist of the chief of police ¹, the police captains, patrolmen and other employees, the number of any rank to be determined by the council. (1969 Code)

Notes

¹ 1. See also chapter 1, article A of this title.

6-1-2: APPOINTMENTS:

All appointments to the police department except that of chief of police ¹ shall be made by the chief of police with the approval of the council in accordance with the civil service laws of the state of Iowa and the rules and regulations of the civil service commission ³. (1969 Code)

Notes

¹ 2. See subsection 1-7-2I of this code.

³ 3. See title 2, chapter 3 of this code.

6-1-3: DUTIES OF CHIEF OF POLICE:

The chief of police, under the superintendence of the mayor, shall have the general management, supervision, control and direction of all members of the police department, police patrol cars, police radio system and of all property belonging to or appertaining to the police department. He shall be executive head of the police department, and his orders shall be obeyed implicitly. He shall be responsible for the discipline, good order and efficiency of the police department and of the various functions thereof. He shall attend to the abatement and removal of nuisances and shall execute and enforce all lawful orders of the mayor and city council. (1969 Code)

6-1-4: RECORDS; REPORTS:

It shall be the duty of the chief of police to keep a record of arrests made by any member of the police department, whether such arrest is made under the provisions of this code or under the laws of the state of Iowa, which record shall show the offense for which the arrest was made, by whom made, and the disposition of the charge. He shall make such periodical reports to the mayor and council as may be required, showing the number of arrests made during such period and the offenses for which each was made. He shall supervise the accounting for all fees collected by the police department and transmit said funds to the clerk for deposit twice each month or more often, as required. (1969 Code; 1991 Code)

6-1-5: CALL OF POSSE:

The chief of police, in the execution of his powers and duties in arresting any person accused or suspected of crime, with or without a warrant, or in the suppression of any riot or unlawful assembly or breach of the peace, or in preventing the violation of any provision of this code, shall have the power to call to his aid any citizen of the city, and it shall be unlawful for any person so called to refuse to obey. (1969 Code)

6-1-6: ASSISTANT CHIEF OF POLICE:

Whenever the chief of police shall be out of the city or unable to act on account of sickness or any other reason, the mayor may designate some other member of the police department to act as chief of police during the temporary absence or inability of the chief of police, and such person shall, during such period, have and exercise all the powers and duties which the chief of police, himself, shall have. (1969 Code)

6-1-7: RULES; REGULATIONS:

The chief of police shall have the power and it shall be his duty to promulgate orders, rules and regulations for the conduct and guidance of the members of the police department, not inconsistent with the law or the provisions of this code and shall see to the enforcement thereof. (1969 Code)

6-1-8: DISCIPLINE:

The mayor or the chief of police may peremptorily suspend, demote, or discharge any member of the department for neglect of duty, disobedience of orders, misconduct, or failure to properly perform his duties. In the event of disciplinary action by the chief of police, a report of such action shall be made to the mayor within twenty four (24) hours thereafter, and if the action is taken by the mayor, the same shall be reported to the city council. Such report shall be in writing, stating the reason for the action, and a copy of such report shall be promptly given to the clerk of the civil service commission. The person or body to whom the report is made shall promptly confirm or reject such disciplinary action according to the facts and merits of the case. (1969 Code)

6-1-9: ASSIGNING EXTRA DUTIES:

The chief of police may assign to any employee or policeman, on his off duty time, any work similar to his duties as employee or policeman. For the purpose of pension and retirement right, injuries, disabilities or death, suffered while on such assigned work shall be considered as being suffered in line of duty. (1969 Code)

6-1-10: POWERS; DUTIES OF MEMBERS:

It shall be the duty of the chief of police and of every member of the police department to preserve the peace and to enforce the laws of the state of Iowa and of the provisions of this code, to protect persons and property, to guard the public health, to prevent crimes, and to arrest persons offending against the laws of the state, the provisions of this code or the lawful orders of the police. (1969 Code)

6-1-11: GIVING OF TESTIMONY:

It shall be the duty of each member of the police department to attend police court, the grand jury or any other court whenever called by the chief of police, attorney, county attorney or other law enforcement officer and to give testimony regarding facts within his knowledge. (1969 Code)

6-1-12: INVESTIGATION OF ACCIDENTS:

It shall be the duty of every member of the police department to promptly report all accidents that shall happen to any person or property upon any of the streets, alleys, sidewalks, public grounds, or other public places and to make such investigation thereof as may be directed by the attorney and to make a complete report in writing of such investigation thereof as may be directed by the attorney. (1969 Code)

6-1-13: JURISDICTION:

The police department shall have jurisdiction and authority within the corporate limits of the city, over all property owned or controlled by the city outside the corporate boundaries of the city, and as otherwise provided by this code and the code of Iowa. (Ord. 469, 10-16-1995)

ARTICLE A. CHIEF OF POLICE

SECTION:

6-1A-1: Powers And Duties

6-1A-2: Badge

6-1A-3: May Summon Aid

6-1A-4: Public Peace

6-1A-5: Disturbances

6-1A-6: Nuisances

6-1A-7: Attend Council Meetings

6-1A-8: Record Of Receipts

6-1A-9: Reports

6-1A-10: Other Powers

Notes

1. See subsection 1-7-2I of this code.

6-1A-1: POWERS AND DUTIES:

The chief of police shall have general direction of the police force, subject to the control of the mayor. He shall execute and return all writs and processes directed to him by the mayor, council, or any court, and, in criminal cases or in case of the violation of any provision of this code, he may serve them in any part of the county. (Ord. 8, 12-7-1953; 1991 Code)

6-1A-2: BADGE:

The chief of police shall carry a badge of office, a metal star with the name of the office engraved thereon. (Ord. 8, 12-7-1953)

6-1A-3: MAY SUMMON AID:

The chief of police may orally summon as many persons as he finds necessary to aid him in making an arrest of any person accused or suspected of a crime, or in the suppression of any riot or unlawful assemblage, or in the prevention of the violation of any provisions of this code. (Ord. 8, 12-7-1953)

6-1A-4: PUBLIC PEACE:

The chief of police shall cause the public peace to be preserved, shall enforce, all laws and provisions of this code, and when any violation thereof shall come to his knowledge or be reported to him on reliable information, he shall cause the requisite complaint to be made and see that the evidence is procured for the successful prosecution of the offender. (Ord. 8, 12-7-1953)

6-1A-5: DISTURBANCES:

The chief of police shall suppress all riots, disturbances and breaches of the peace; apprehend any person in the act of committing an offense against the laws of the state or the provisions of this code and forthwith bring such person or persons before the proper authority for examination and trial. He shall examine into all violations of this code and the criminal laws of the state and all nuisances within the corporate limits of the city, and report the same to the mayor. (Ord. 8, 12-7-1953)

6-1A-6: NUISANCES:

The chief of police shall serve or cause to be served notice upon the owner, agent or occupant of any private property where a nuisance exists, or upon any person causing or responsible for any nuisance existing on any street, alley or public ground, requiring such owner, agent or occupant, or person causing or responsible for such nuisance, to abate or remove the same, and if the same is not abated or removed, to remove or abate the same as shall be necessary. (Ord. 8, 12-7-1953)

6-1A-7: ATTEND COUNCIL MEETINGS:

The chief of police shall be the sergeant at arms of the council chamber and shall attend all meetings of the council and do such other things as the mayor and council shall, from time to time, direct. (Ord. 8, 12-7-1953)

6-1A-8: RECORD OF RECEIPTS:

The chief of police shall keep a correct account, in a book provided for that purpose, of all money or property belonging to the city coming into his hands from whatever source, stating from whom or on what account the same was paid, and he shall, when not otherwise provided, pay over monthly to the clerk all money and securities in hand belonging to the city and take the clerk's receipt therefor. (Ord. 8, 12-7-1953)

6-1A-9: REPORTS:

The chief of police shall make quarterly reports to the council, and more often if required by them, of his acts and doings as chief of police, and shall submit his books to the inspection of the mayor, council or any committee of the council, whenever requested by them to do so. (Ord. 8, 12-7-1953)

6-1A-10: OTHER POWERS:

The chief of police shall have such other powers and perform such other duties as may be provided by the council, the provisions of this code or the laws of the state. (Ord. 8, 12-7-1953; 1991 Code)

CHAPTER 2

FIRE DEPARTMENT

SECTION:

6-2-1: Career Members

6-2-2: Volunteer Members

6-2-3: Employment

6-2-4: Interference During Fire

6-2-5: Private Use Of Equipment Prohibited

6-2-6: Interference With Equipment

6-2-7: Refusal To Assist

6-2-8: Chief Of Fire Department

6-2-1: CAREER MEMBERS:

The full time career staff of the fire department shall include the fire chief and such number of drivers/firefighters as the council shall establish. (1991 Code)

6-2-2: VOLUNTEER MEMBERS:

The fire department shall include such number of volunteer members as the chief shall recommend and the council shall deem necessary. Volunteers shall be nominated for membership by the fire chief and shall be approved and employed by the city manager. (1991 Code)

6-2-3: EMPLOYMENT:

Terms and conditions of employment, training, qualifications, compensation and other conditions of employment shall be adopted by the council, incorporated in the city personnel policies, directed by the city manager or established by the fire chief. (1991 Code)

6-2-4: INTERFERENCE DURING FIRE:

It shall be unlawful to hinder or interfere with any officer or fireman in the performance of his duty at, or going to, or returning from any fire or while attending to his duties as a member of the fire department. (Ord. 15, 12-7-1953)

6-2-5: PRIVATE USE OF EQUIPMENT PROHIBITED:

It shall be unlawful to take or use any tools, equipment or apparatus belonging to the fire department for private use. (Ord. 15, 12-7-1953)

6-2-6: INTERFERENCE WITH EQUIPMENT:

It shall be unlawful to cut, deface, destroy or injure any wires, poles, signal boxes or any other property or fixtures belonging to or connected with the fire department or the fire alarm system. (Ord. 15, 12-7-1953; 1991 Code)

6-2-7: REFUSAL TO ASSIST:

A. It shall be unlawful for any person with his automobile or other vehicle to refuse to assist in hauling or carrying any fire apparatus to a fire, or refuse to assist in the removal, care or preservation of property at any fire, when called upon by the chief of the fire department, the mayor, any member of the city council or the chief of police. Any bills presented for such services must be approved by the person ordering the same.

B. It shall be unlawful to neglect or refuse to assist the firemen in their duties at any fire when called upon to do so by the chief of the fire department or the officer acting in that capacity. (Ord. 15, 12-7-1953)

6-2-8: CHIEF OF FIRE DEPARTMENT :

A. Housing Of Equipment: All fire apparatus and equipment shall be housed in a public fire station under such conditions and regulations as the council shall provide, and all trucks, hose, hose carts, engines, machinery and other apparatus used by the fire department shall be under the general supervision and control of the chief of the fire department, subject to the rules and regulations of the council.

B. Supervision Of Equipment: The chief of the fire department shall carefully examine into the condition of all property under his supervision and control and see that the same is at all times in good repair and condition, cause all necessary repairs to be made without delay, and report to the city council any alteration or additions to the equipment required.

C. Alarm System: The chief of the fire department shall have charge of the fire alarm system and the signal boxes, keys and apparatus connected therewith.

D. Payroll; Expense: The chief of the fire department shall keep a correct roll of all members of the fire department, the date of their admission and if not now a member, the date of discharge, with the rate of pay and amounts due each, and such list shall be corrected quarterly or oftener if the city council requires.

He shall certify in writing all bills for pay to the members of the fire department and all bills incurred for the fire department to the city council once a quarter, together with a list of all fires during the quarter reported on, the cause thereof, if known, and the number and description of the buildings destroyed or damaged.

E. Suspension: The chief of the fire department shall recommend for suspension or discharge any subordinate under his direction for neglect of duty, disobedience of orders or misconduct, and the city council may act thereon at its discretion.

F. Persons Restricted Near Fire: The chief of the fire department may prescribe the limits in the vicinity of the fire within which no person, except those residing therein, members of the city council, mayor, members of the fire department, police force and those admitted by him or his subordinates shall be permitted to come.

G. Necessary Destruction Of Property: The chief of the fire department shall, when in his judgment it becomes necessary to check or control any fire, have power to order any fence, building or erection of any kind to be cut down and removed, and with the consent of two (2) members of the city council or of the mayor, if no councilmen are present, have power to cause any building or erection to be blown with explosives for the purpose of checking or extinguishing a fire.

H. Removal Of Property: The chief of the fire department shall have power, with the consent of the city council, to tear down any portion of any building that may be standing after a fire which, in their judgment, may be dangerous to persons or property.

I. Removal Of Wires: The chief of the fire department shall or his representatives shall have the power to cause the removal of all wires or the turning off of all electrical current whenever the same interferes with the work of the fire department.

J. Inspection Of Buildings: The chief of the fire department shall act as fire warden, and he or his representatives shall inspect all buildings whenever necessary or whenever required by the city council and whenever he has reason to believe that any building or premises are not kept in compliance with the provisions of this code. He shall have access to any building or premises at any time with the right to inspect all chimneys, flues, fireplaces, wood stoves, ranges and ovens, fixed boilers and any and all places for using fire or holding ashes, to secure the building from damage by fire. He or his representative shall be admitted at all reasonable hours of the daytime to any house, building or premises for the purpose of such inspection, and if any violation of any provision of this code or other dangerous condition exists or combustibles such as rubbish, shavings, excelsior, straw, hay, waste, rags, paper or other material that may be dangerous or liable to ignite are kept on or in the premises, he may at once order, in writing, the owner, occupant or agent where such violation or dangerous condition exists to remove or repair the same within twenty four (24) hours after receipt of such order.

K. Reports: The chief of the fire department shall at the last regular meeting of the city council in each fiscal year, report in full to the city council in regard to the fire department, showing the number of men employed, or enrolled, the fire alarms answered, the loss by fire and insurance carried, the condition of all property and apparatus, with suggestions and recommendations for the improvement of the department. He shall attach to his report a complete list of all municipal property in his possession.

L. Other Duties: The chief of the fire department shall have such other powers and perform such other duties as may be provided by the city council, the provisions of this code or the laws of the state. (Ord. 16, 12-7-1953; 1991 Code)

Notes

¹ 1. See also subsection 1-7-2G of this code.

CHAPTER 3

CRIMINAL CODE

SECTION:

- 6-3-1: Assault
- 6-3-2: Battery
- 6-3-3: Affray
- 6-3-4: Disturbing The Peace
- 6-3-5: Harassment
- 6-3-6: Unlawful Assembly
- 6-3-7: Failure To Disperse
- 6-3-8: Disorderly Conduct
- 6-3-9: Criminal Trespass
- 6-3-10: Harassment Of Public Officers And Employees
- 6-3-11: False Reports
- 6-3-12: Refusing To Assist Officer
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- 6-3-14: Falsely Claiming Emergency
- 6-3-15: Obstructing Emergency Phone Calls
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6-3-27: Throwing Objects

6-3-28: Drug Paraphernalia

6-3-29: Provision Of Tobacco Products To Minors; Possession Or Purchase Of Tobacco Products By Minors

6-3-30: Inhaling Toxic Vapors And Chemicals

6-3-1: ASSAULT:

A. A person commits an assault when, without justification, the person does any of the following:

1. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.

2. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting or offensive, coupled with the apparent ability to execute the act.

3. Intentionally points any firearm toward another or displays in a threatening manner any dangerous weapon toward another.

B. Provided, that where the person doing any of the above enumerated acts and such other person are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace, the act shall not be an assault. (Ord. 328, 2-3-1986)

6-3-2: BATTERY:

A person commits a battery when he commits an "assault" as defined in section 6-3-1 of this chapter and then actually applies physical force to the person of another by touching him or her in any manner. (Ord. 328, 2-3-1986)

6-3-3: AFFRAY:

An affray is committed when two (2) or more persons voluntarily or by agreement engage in any fight or use any blows or violence toward each other in any angry or quarrelsome manner in any public place. (Ord. 328, 2-3-1986)

6-3-4: DISTURBING THE PEACE:

A person disturbs the peace when he does any of the following acts:

A. Wilfully disturbs any deliberative body or agency of the state or subdivision thereof with the purpose of disrupting the functions of such body or agency by tumultuous behavior or coercing by force or threat of force any official conduct or proceeding.

B. Wilfully disturbs any assembly of persons met for religious worship with the purpose of disrupting such assembly by tumultuous behavior intended to disturb the order and solemnity of such assembly.

C. Wilfully disturbs or allows disturbance of the peace and quiet of any street, alley, avenue, public ground, public building or private building by making or tolerating unduly excessive noise in any manner.

D. Operates a stationary internal combustion engine within one hundred feet (100') of a dwelling unit for a period of more than two (2) hours in any eight (8) hour period, or at any time between the hours of eight o'clock (8:00) P.M. and six o'clock (6:00) A.M., local time.

The preceding paragraph shall apply, without limitation, to refrigeration units on semitrailers and railcars, locomotives, truck-tractors and contractors' equipment.

However, the provisions of this subsection shall not apply to stationary internal combustion engines operated by the city, the Spencer municipal utilities, or their employees, agents or contractors. (Ord. 328, 2-3-1986; Ord. 343, 11-17-1986; Ord. 484, 11-3-1997)

6-3-5: HARASSMENT:

A person commits harassment when, with intent to intimidate, annoy or alarm another person, the person does any of the following:

A. Communicates with another by telephone, telegraph or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, boat or other conveyance.

C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge and consent.

D. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur. (Ord. 328, 2-3-1986)

6-3-6: UNLAWFUL ASSEMBLY:

An unlawful assembly is three (3) or more persons assembled together, with them or any of them acting in a violent manner and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of any unlawful assembly, knowing or having reasonable grounds to believe that it is such, is guilty of unlawful assembly. (Ord. 328, 2-3-1986)

6-3-7: FAILURE TO DISPERSE:

A peace officer may order the participants in an unlawful assembly or persons in the immediate vicinity of an unlawful assembly to disperse. Any person within hearing distance of such command, who refuses to obey, is guilty of failure to disperse. (Ord. 328, 2-3-1986)

6-3-8: DISORDERLY CONDUCT:

A person is guilty of disorderly conduct when the person does any of the following:

- A. Engages in fighting or violent behavior in any public place or in or near any lawful assembly of persons; provided, that participants in athletic contests may engage in such conduct which is reasonably related to that sport.
- B. Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.
- C. Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
- D. Without lawful authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.
- E. By words or action, initiates or circulates a report or warning of fire, epidemic or other catastrophe, knowing such report to be false or such warning to be baseless.
- F. Without authority or justification, the person obstructs any street, sidewalk, highway or other public way, with the intent to prevent or hinder its lawful use by others. (Ord. 328, 2-3-1986)

6-3-9: CRIMINAL TRESPASS:

- A. The term "property" shall include any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned.
- B. The term "trespass" shall mean one or more of the following acts:
 - 1. Entering upon or in property without justification or without the implied or actual permission of the owner, lessee or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass or place thereon or therein anything animate or inanimate, without justification, or without the implied or actual permission of the owner, lessee or person in lawful possession.
 - 2. Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee or person in lawful possession, or the agent or employee of the owner, lessee or person in lawful possession, or by any peace officer, magistrate or public employee whose duty it is to supervise the use or maintenance of the property.
 - 3. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.
 - 4. Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee or person in lawful possession.
- C. The term "trespass" shall not mean entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or in advertently been thrown, fallen, strayed or blown onto the property of another; provided, that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, leaves the property as quickly as is possible and does not unduly interfere with the lawful use of the property.
- D. A person who knowingly does any of the above-listed acts is guilty of criminal trespass. (Ord. 328, 2-3-86)

6-3-10: HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES:

Any person who wilfully prevents or attempts to prevent any public officer or employee from performing that officer's or employee's duty is guilty of harassment of public officers and employees. (Ord. 328, 2-3-86)

6-3-11: FALSE REPORTS:

A person who reports or causes to be reported false information to a fire department or a law enforcement authority, knowing that the information is false, or who reports the alleged occurrence of a criminal act knowing the same did not occur is guilty of submitting a false report. (Ord. 328, 2-3-86)

6-3-12: REFUSING TO ASSIST OFFICER:

Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a crime under this Chapter. (Ord. 328, 2-3-86)

6-3-13: IMPERSONATING OFFICER:

It shall be unlawful to falsely claim or hold oneself out to be a police officer. (Ord. 328, 2-3-86)

6-3-14: FALSELY CLAIMING EMERGENCY:

Any person who secures the use of a telephone or telephone line by falsely stating that such telephone or line is needed for an emergency call is guilty of a crime under this Chapter. (Ord. 328, 2-3-86)

6-3-15: OBSTRUCTING EMERGENCY PHONE CALLS:

An emergency call is any call to a fire department or police department for aid, or a call for medical aid or ambulance service, when

human life or property is in jeopardy and the prompt summoning of aid is essential. Any person who fails to relinquish any telephone or telephone line which the person is using when informed that such phone or line is needed for an emergency call, commits a crime under this Chapter. (Ord. 328, 2-3-86)

6-3-16: EXPOSING PERSONS TO X-RAY RADIATION:

Any person other than one licensed to practice medicine, osteopathic medicine, chiropractic or dentistry, or one acting under the direction of a person so licensed, who knowingly exposes any other person to X-ray radiation, commits a crime under this Chapter. (Ord. 328, 2-3-86)

6-3-17: ABANDONED OR UNATTENDED APPLIANCES:

Any person who abandons or otherwise leaves unattended any refrigerator, icebox or similar container with doors that may become locked, outside of buildings and accessible to children, or any person who allows any such refrigerator, icebox or similar container to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children, commits a crime under this Chapter. (Ord. 328, 2-3-86)

6-3-18: LOITERING:

A. It shall be unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

B. The circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall, prior to any arrest for any offense under this Section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true, and if, believed by the officer at the time, would have dispelled the alarm or immediate concern. (Ord. 328, 2-3-86)

6-3-19: DEFACING PUBLIC OR PRIVATE PROPERTY:

No person shall mar, injure, destroy or deface, or aid in injuring, destroying or defacing in said City, any public or private property, or cause to be posted or stuck, any handbill or placard upon any public or private building, or upon any fence or other property within the City without the permission from the owner or occupant first obtained; or mar, injure, destroy or deface or cause to be marred, destroyed, injured or defaced, any bridge, fence, tree, street sign, awning, lamppost, electric light post or apparatus or any other property, not belonging to the person so offending, whether public or private. (Ord. 328, 2-3-1986)

6-3-20: STENCH BOMBS:

It shall be unlawful to throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, or about any theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or to attempt to do any of these acts, or to prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, prison officials or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar person licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables. (Ord. 328, 2-3-1986)

6-3-21: INTERFERENCE WITH PUBLIC WORK:

It shall be unlawful to unduly interfere with the making or repairing of any public works. (Ord. 328, 2-3-1986)

6-3-22: REMOVING PUBLIC PROPERTY:

It shall be unlawful to remove or cause to be removed any dirt, sand, stone, rock, tree, shrub, plant, sidewalk or fence from any street, alley, highway, lot of ground, belonging to the City without permission from the Public Works Director. (Ord. 328, 2-3-1986; 1991 Code; Ord. 508, 1-4-1999)

6-3-23: SIRENS:

Except for police, fire and other authorized emergency or law enforcement vehicles, it shall be unlawful to sound a siren on any vehicle. (Ord. 328, 1-3-1986)

6-3-24: THEFT:

A person commits theft pursuant hereto when that person does any of the following with regard to property not exceeding two hundred dollars (\$200.00) in value:

A. Takes possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.

B. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person. Failure by a bailee or lessee of personal property to return the property within seventy two (72) hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation.

C. Obtains the labor or services of another, or a transfer of possession, control, or ownership of the property of another, or the beneficial use of property of another, by deception. Where compensation for goods and services is ordinarily paid immediately upon the obtaining of such goods or the rendering of such services, the refusal to pay or leaving the premises without payment or offer to pay or without having obtained from the owner or operator the right to pay subsequent to leaving the premises gives rise to an

inference that the goods or services were obtained by deception.

D. Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer. The fact that the person is found in possession of property which has been stolen from two (2) or more persons on separate occasions, or that the person is a dealer or other person familiar with the value of such property and has acquired it for a consideration which is far below its reasonable value, shall be evidence from which the court or jury may infer that the person knew or believed that the property has been stolen.

E. Takes, destroys, conceals or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

F. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person or corporation, and obtains property or service in exchange therefor, if the person knows that such check, share draft, draft or written order will not be paid when presented.

Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten (10) days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.

Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

G. Any act that is declared to be theft by any provision of this Code. (Ord. 347, 3-16-1987; Ord. 441, 4-19-1993; Ord. 524, 3-20-2000)

6-3-25: MATERIAL STORAGE:

No person shall store, place or maintain or cause to be stored, placed or maintained in the residential zoning districts of the city, firewood, building materials or other materials in a pile, stack or other accumulation, except under the following conditions:

- A. Such storage shall be limited to the rear or side yard, as defined in title 9, chapter 2 of this code.
- B. Such storage shall be no closer than six feet (6') to the lot line.
- C. Such storage shall not exceed a maximum height of six feet (6'). (Ord. 391, 8-6-1990)

6-3-26: FIREARMS:

A. Use Of Weapons Prohibited: No person shall use or discharge firearms of any description, air rifles, spring guns, bows and arrows, slings, or any other device capable of firing or launching a missile or projectile which is potentially dangerous to wildlife or human safety, within the corporate limits of the city; from outside the corporate limits in a matter causing a projectile to cross the corporate boundary and enter the airspace above the city limits, or on any property owned or controlled by the city of Spencer, which is not within the corporate limits, including, without limitation, the tree and yard waste disposal site and the property comprising the Northern Plains Regional Landfill, unless as provided in the following section.

B. Exceptions: The general prohibition established in the preceding section shall not be applicable in the following situations:

- 1. The use or firing of a weapon by a peace officer acting within the scope of his duty and employment.
- 2. The use or firing of a weapon by any person in the defense of himself or another or in the defense of property only to the extent permitted under the provisions of chapter 704 of the code of Iowa, as presently enacted or hereinafter amended.
- 3. The use of baseball or softball bats, golf clubs or similar athletic equipment used to strike a ball when such use does not present a clear and present danger to property or persons not involved in the athletic endeavor.
- 4. Activities conducted entirely within the confines of a permanently and completely enclosed building.
- 5. Archery activities conducted in connection with an established commercial or industrial business at sites, and at times and under conditions and requirements approved by the Spencer chief of police.
- 6. Hunting activities may be conducted on that portion of the Northern Plains Regional Landfill property which is under the control and management of the Palo Alto County conservation board. (Ord. 285, 10-10-1983; Ord. 289, 12-27-1983; Ord. 673, 8-18-2008; Ord. 755, 9-3-2013)

6-3-27: THROWING OBJECTS:

No person shall throw any stone, stick or other object in a manner which causes, might have caused, or is intended to cause injury to a person or damage to property. (1991 Code)

6-3-28: DRUG PARAPHERNALIA:

A. Definitions: For purposes of this chapter the term "drug paraphernalia" shall mean: all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of this state. "Drug paraphernalia" includes, but is not limited to:

- 1. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances under circumstances in violation of the laws of this state;

2. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
3. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
4. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
5. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
6. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or
7. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburation tubes and devices;
 - d. Smoking and carburation masks;
 - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air driven pipes;
 - k. Chillums;
 - l. Bongs; or
 - m. Ice pipes or chillers.

B. Possession, Sale Or Distribution Prohibited: It shall be unlawful for any person to possess, to sell, offer for sale, display, furnish, supply or give away any drug paraphernalia.

The prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, nurses, hospitals, physicians, dentists, veterinarians, pharmacists or embalmers engaged in the normal lawful course of their respective businesses or professions, nor to common carriers or warehousemen or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties.

C. Penalties And Remedies:

1. Any violation of this section shall be a simple misdemeanor.
2. Any violation of the provisions of this section shall also constitute a municipal infraction.
3. The city may institute civil proceedings to obtain injunctive and declaratory relief or such other orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this section.

D. Evidence Of Violation: In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. The proximity of the object to controlled substances;
3. The existence of any residue of controlled substances on the object;
4. Direct or circumstantial evidence of the knowledge of any owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he knows, or reasonably should know, could use the object to facilitate a violation of this chapter;
5. Instructions, oral or written, provided with the object concerning its use;
6. Descriptive materials accompanying the object which explain or depict its use;
7. National or local advertising concerning its use;
8. The manner in which the object is displayed for sale;
9. Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal

purposes, such as an authorized distributor or dealer of tobacco products;

10. The existence and scope of legal uses for the object in the community;

11. Expert testimony concerning its use. (Ord. 475, 1-20-1997)

6-3-29: PROVISION OF TOBACCO PRODUCTS TO MINORS; POSSESSION OR PURCHASE OF TOBACCO PRODUCTS BY MINORS:

A. A person shall not sell, give or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age.

B. A person under eighteen (18) years of age shall not smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products, or cigarettes.

C. A person charged with a violation of the foregoing provisions shall have available all defenses set forth in section 453A.2 of the Iowa Code.

D. Penalties for violation of subsection A or B of this section shall be as provided in section 453A.3 and 453A.22 of the code of Iowa. (Ord. 689, 7-20-2009)

6-3-30: INHALING TOXIC VAPORS AND CHEMICALS:

A. No person shall knowingly smell or inhale the fumes of toxic vapors, whether synthetic or organic, for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system. The actions in the preceding sentence are sometimes referred to as "huffing". No person shall knowingly possess, buy, or use any such substance for the purposes described in this subsection, nor shall any person knowingly aid any other person to use any such substance for the purposes described in this subsection. This subsection shall not apply to the inhalation of anesthesia or other substances for prescribed medical or dental purposes.

B. No person shall use or possess an aerosol spray product or other inhalant, that is not used pursuant to the instructions or prescription of a licensed healthcare provider, or that is not used pursuant to the manufacturer's label instructions, for the purposes described in subsection A of this section.

C. A person commits an offense if the person knowingly uses or possesses with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce a toxic vapor into the human body.

D. "Inhalant paraphernalia" means any product, implement, or device used or intended to be used or designed to be used to inhale or ingest the fumes of toxic vapors as prohibited in subsection A of this section. (Ord. 729, 9-19-2011)

CHAPTER 4

ANIMAL CONTROL

SECTION:

6-4-1: Cruelty To Animals

6-4-2: Leaving In Public Places

6-4-3: Herding

6-4-4: Careless Handling; Colliding

6-4-5: Hitching To Hydrants, Trees

6-4-6: Driving On Sidewalks; Public Places

6-4-7: Standing Male Animals

6-4-8: Animals On Leash

6-4-9: Wild Or Dangerous Animals

6-4-10: Pets And Hobby Animals Other Than Dogs And Cats

6-4-1: CRUELTY TO ANIMALS:

No person shall abuse, torture, torment, mutilate, overwork, overload, beat or unnecessarily kill any animal or fail to provide any animal with adequate food, adequate water, exercise, sanitation, shelter, or veterinary care; or abandon; or carry or cause to be carried in or upon a vehicle in a cruel manner; or commit any other act, or omission by which unjustifiable pain, distress, suffering or death is caused or permitted to any animal. (Ord. 303, 7-16-1984; Ord. 335, 5-19-1986)

6-4-2: LEAVING IN PUBLIC PLACES:

It shall be unlawful to stake out or allow to run at large upon any street or alley any cattle, horse, mule, sheep, goat, swine or other domestic animals of any kind. (Ord. 38, 12-7-1953; 1991 Code)

6-4-3: HERDING:

It shall be unlawful to have in charge a herd of more than six (6) animals and not have a person constantly with such animals. (Ord. 38, 12-7-1953)

6-4-4: CARELESS HANDLING; COLLIDING:

It shall be unlawful to drive, ride or direct, cause or permit to be driven or ridden any horse or other animal, carriage or vehicle, in a careless and improper manner or cause or allow any animal or vehicle to collide with any person, vehicle or other thing. (Ord. 38, 12-7-1953)

6-4-5: HITCHING TO HYDRANTS, TREES:

It shall be unlawful to fasten, hitch, or tie any horse or other animal to any fire hydrant, telegraph, telephone, electric light or other pole or to any fence, tree, shrub or other property. (Ord. 38, 12-7-1953)

6-4-6: DRIVING ON SIDEWALKS; PUBLIC PLACES:

It shall be unlawful to drive, ride, lead, place or allow any animal or vehicle upon any public way or leave the same standing on or across any footway or crossing; except, that any person may lead, drive or ride any animal over any sidewalk into a lot or building with the consent of the occupant or owner. (Ord. 38, 12-7-1953)

6-4-7: STANDING MALE ANIMALS:

It shall be unlawful to exhibit, or stand for service, any stallion, jack, bull, boar or other animal, unless within an enclosure so arranged as to obstruct the public view and in such place as to prevent the noise therefrom disturbing the public or any person, or without the written permit from the Mayor to exhibit or stand any such animal in that particular place. (Ord. 38, 12-7-1953)

6-4-8: ANIMALS ON LEASH:

No privately owned animal shall be allowed to run at large in any City park except by permission of the Park Board, and every such animal shall be deemed as running at large unless the owner carries such animal or leads it by a leash or chain not exceeding six feet (6') in length or keeps it confined in or attached to a vehicle, except for the training of dogs, and only then by permission from the Park Board. (Ord. 38, 12-7-1953)

6-4-9: WILD OR DANGEROUS ANIMALS:

A. Wild Animals Prohibited: No person shall harbor, maintain or control a wild, dangerous or undomesticated animal within the City, except as hereinafter provided.

B. Definitions: A wild, dangerous or undomesticated animal shall be that which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage. Fish in an aquarium are not considered in this definition. This definition of said animals shall include, but not be limited to:

All poisonous animals including rear-fang snakes.

Alligators and crocodiles, thirty inches (30") in length or more.

Apes (chimpanzees, gibbons, gorillas, orangutans and siamangs).

Baboons.

Bears.

Bison.

Cheetahs.

Constrictor snakes.

Coyotes.

Deer.

Gamecocks and other fighting birds.

Hippopotami.

Hyenas.

Jaguars.

Leopards.

Lions.

Lynxes.

Monkeys.

Ostriches.

Piranha fish.

Pumas, also known as cougars, mountain lions and panthers.

Rhinoceroses.

Sharks.

Snow leopards.

Tigers.

Wolves.

Vicious animals, meaning any animal which has previously attacked or bitten any person or which has behaved in such a manner that a person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

C. Exceptions: The provisions of subsections A and B of this section shall not apply to retail establishments, zoological gardens, circuses and zoos; if:

1. The animals' location conforms to the provisions of the zoning ordinance of the city¹.
2. All animals and animal quarters are kept in a clean and sanitary condition and so maintained so to eliminate objectionable odors.
3. Animals are maintained in quarters so constructed as to prevent their escape.
4. No person lives or resides within one hundred feet (100') of the quarters in which the animals are kept.

D. Vicious Animals:

1. The term "vicious animal" means:
 - a. Any animal which has attacked a human being or domestic animal one or more times without provocation;
 - b. Any animal with a history, tendency, or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
 - c. Any animal that has been trained for fighting or is owned or kept for such purposes;
 - d. Any animal trained to attack human beings, upon command or spontaneously, in response to human activities, except dogs owned by or under the control of the police department, a law enforcement agency of the state or the United States or of a branch of the armed forces of the United States.
2. Any "vicious animal", as defined herein, found at large in the city of Spencer, may be seized by any police officer or humane officer and, upon establishment to the satisfaction of the magistrate of the vicious character of said animal, it may be killed by a police officer or licensed veterinarian.
3. If a vicious animal is so dangerous that it cannot be safely apprehended, it may be immediately destroyed by any police officer or humane officer. (Ord. 323, 9-16-1985; Ord. 364, 8-15-1988; Ord. 672, 8-18-2008)

Notes

- ¹ 1. See title 9 of this code.

6-4-10: PETS AND HOBBY ANIMALS OTHER THAN DOGS AND CATS:

A. Definitions: For purposes of this section, the following terms shall mean:

AT LARGE: An animal that is off the premises of the owner and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.

BIRDS: Parakeets, pigeons, birds of prey, pheasants, quail and other similar birds that are kept as pets or for hobby purposes. Chickens, geese and ducks are considered "farm animals" and may not be kept as household pets.

FISH AND AMPHIBIANS: Shall include frogs, toads and aquatic animals that are kept as pets or for hobby purposes.

HOUSEHOLD PETS AND HOBBY ANIMALS: "Mammals", "birds", fish, amphibians, arachnids, insects, and "reptiles" as specifically defined in this section.

MAMMALS: Rabbits, ferrets, mongoose, mink and similar small animals, and potbellied pigs that are kept as pets or for hobby purposes.

OWNER: Any person having temporary or permanent custody of, sheltering, having charge of, harboring, exercising control over or having property rights to any animal covered by this section.

REPTILES: Nonconstrictor snakes, lizards, geckos, salamanders, chameleons, iguanas, alligators and crocodiles less than thirty inches (30") in length, and similar reptiles that are kept as pets or for hobby purposes and that are not prohibited under the provisions of section 6-4-9 of this chapter.

UNDER RESTRAINT: That an animal is secured by a leash or lead or under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

B. Permitted Household Pets And Hobby Animals: "Household pets and hobby animals", as defined in subsection A of this section, may be kept within the city only in compliance with subsections C, D, E and F of this section.

C. Limitation On The Number Of Animals:

1. There shall be no numerical limitation on the number of animals described in subsection A of this section that are kept and

maintained exclusively within the residence of the owner.

2. The following animals may be kept on residential premises outside the residence of the owner, but shall be subject to the following numerical limitations, which shall be the maximum number of animals permitted at any single location at any one time.

- a. Mammals of a maximum weight not exceeding ten (10) pounds, no more than ten (10) in number.
- b. Mammals exceeding ten (10) pounds in weight, no more than six (6) in number.
- c. Fish and amphibians, no more than fifty (50) in number.
- d. Birds, no more than thirty (30) in number.

D. Sanitation:

1. No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any property, except the premises of the owner, unless such owner immediately removes and disposes of all deposits by such animals.

2. No person owning, harboring, keeping, or in charge of an animal within the city shall permit any waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor.

3. No person owning, harboring, keeping or in charge of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

E. Nuisances: No person shall keep animals subject to the provisions of this section which cause a "public nuisance". A "public nuisance" shall include:

1. Any animal that is repeatedly found at large.
2. Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.
3. Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.
4. Any animal, whether or not on the property of its owner, that, without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons on a public right of way.
5. Any animal that attacks domestic animals.
6. Any animal that causes unsanitary conditions in enclosures or surrounding where the animal is kept.
7. Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single location, or the inadequacy of the facilities.
8. Any animals kept for commercial purposes.

F. Commercial Use Prohibited: No persons shall keep animals covered by this section for commercial purposes, except on premises where such commercial use is permitted under the city's zoning ordinances or exclusively within the owner's residence. The following facts shall be considered evidence of commercial activity:

1. The advertising of animals for sale.
2. The continuing periodic sale of animals.
3. Keeping animals in excess of the numerical limits established under subsection C of this section.
4. Licensing, registration or certification of the keeper of such animals as a "dealer".
5. The holding of an Iowa sales tax permit related to the sale of animals.
6. Reporting activities in connection with such animals as a business on any legally required document, report, or tax return.
7. Any other factors that indicate commercial activity. (Ord. 510, 1-18-1999; Ord. 717, 4-18-2011)

ARTICLE A. DOGS AND CATS

SECTION:

6-4A-1: Definitions

6-4A-2: Animals At Large

6-4A-3: Nuisances

6-4A-4: Impounding

6-4A-5: Rabies; Communicable Diseases

6-4A-6: Removal Of License Or Rabies Vaccination Tag

6-4A-7: Solid Waste Removal

6-4A-1: DEFINITIONS:

For use in this chapter, the following terms are defined:

ABANDONED: Failure to provide control over a dog or cat, or failure to provide adequate food, water and shelter shall constitute "abandonment".

ADEQUATE FOOD: Providing at suitable intervals of not more than twenty four (24) hours a quantity of wholesome foodstuff suitable for the physical condition and age of the animal, served in a clean receptacle or container sufficient to maintain an adequate level of nutrition for such animal.

ADEQUATE SANITATION: Periodic cleaning or sanitizing of primary enclosures and housing facilities to remove excreta and other waste materials and dirt, so as to minimize health hazards, flies and odors.

ADEQUATE SHELTER: To maintain a structurally sound and weatherproof shelter which provides access to shade from direct sunlight and protection from exposure to weather conditions.

ADEQUATE SPACE: Primary enclosures and housing facilities shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition.

ADEQUATE VETERINARY CARE: Providing a sick, diseased or injured animal with the proper program of care by a licensed veterinarian or under a licensed veterinarian's direction, or humanely euthanized.

ADEQUATE WATER: Reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner provided at least daily for such duration and of sufficient quantity as is necessary for the health and comfort of the animal.

AT LARGE: Any dog or cat found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital, clinic or kennel, or on a leash or "at heel" beside a competent person and obedient to that person's command.

CAT: Both male and female animals of the feline species.

DOG: Both male and female animals of the canine species.

OWNER: Any person or persons, firm, association or corporation owning, keeping, sheltering, licensing, harboring or restraining a dog or cat. (Ord. 303, 7-16-1984; Ord. 335, 5-19-1986; 1991 Code)

6-4A-2: ANIMALS AT LARGE:

No owner of any dog or cat shall permit such animal to run at large. (Ord. 303, 7-16-1984)

6-4A-3: NUISANCES:

It shall be a violation of this code, subject to the penalty and enforcement provisions of this code, for any person to permit or allow a dog or cat to become or create a nuisance. In regard to the keeping of dogs and cats, the following are hereby declared to be nuisances:

A. The keeping of pet animals on private property in such number or in such manner that allows for the accumulation of solid waste of such animal which becomes a detriment to the health of the animal or adjacent property owners.

The maintenance of more than four (4) dogs or six (6) cats at any dwelling or residence within the city, excluding pups born to a dog otherwise legally kept to an age of six (6) months, and kittens born to a cat otherwise legally kept to an age of eight (8) weeks, is presumed to be a nuisance.

B. Allowing any dog to habitually bay or bark or any cat to screech, yell, or make a sound of any kind or nature for prolonged periods in such manner as to unreasonably disturb the peace and quiet of the vicinity.

C. Allowing a pet animal to cause any damage or defilement to the public or private property.

D. Allowing a pet animal to molest any person on public or private property.

E. Allowing a pet animal to molest or kill wildlife, birds or domestic animals on public or private property.

F. Allowing a pet animal to run after or chase persons or vehicles. (Ord. 303, 7-16-1984; Ord. 335, 5-19-1986; 1991 Code; Ord. 717, 4-18-2011)

6-4A-4: IMPOUNDING:

A. Any dog or cat found at large or any unlicensed dog or cat wherever found may be seized and impounded or, at the discretion of the enforcing officer, the owner may be served a summons to appear before a proper court to answer charges made hereunder.

B. The owner of an impounded animal may recover the animal by paying to the city at the office of the city clerk an impoundment fee in the amount of twenty dollars (\$20.00), together with all costs of impounding. If an impounded animal is not recovered by its owner within three (3) business days after the impoundment, the animal may be humanely disposed of.

C. If an impounded animal is not licensed and vaccinated as required under chapter 351 of the Iowa Code, as amended, the animal shall not be released from impoundment until properly licensed and vaccinated, as required under that chapter. (Ord. 303, 7-16-1984; 1991 Code; Ord. 504, 9-8-1998; Ord. 511, 2-1-1999)

6-4A-5: RABIES; COMMUNICABLE DISEASES:

A. It shall be unlawful for any person knowing or suspecting a dog or cat to have rabies or any other communicable disease to permit such animal to be taken off the owner's premises or to come in contact with other animals.

B. Upon learning or suspecting that a dog or cat has rabies or any other communicable disease or upon learning that a dog or cat has bitten any person, the owner shall immediately notify a veterinarian licensed under the laws of the state and shall thereafter follow explicitly such instructions as the veterinarian may dictate relative to the care of such animal in order to protect the public health.

C. With respect to rabies, and upon learning or suspecting that a dog or cat has rabies, or upon learning that a dog or cat has bitten any person, the owner or custodian of said animal shall, in addition to the requirements set forth in subsections A and B of this section, immediately confine the animal in an enclosed structure for a continuous period of not less than two (2) weeks.

D. The term "enclosed structure" shall mean a structure to hold the animal and prevent its escape and sufficient to prevent any contact between the animal and any person or other animal, including trespassers. (Ord. 303, 7-16-1984; 1991 Code)

6-4A-6: REMOVAL OF LICENSE OR RABIES VACCINATION TAG:

No unauthorized person shall remove a license or rabies vaccination tag from any dog or cat. (Ord. 303, 7-16-1984)

6-4A-7: SOLID WASTE REMOVAL:

Any person who shall permit a pet animal to be on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste.

The provisions of this section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity. (Ord. 335, 5-19-1986)

CHAPTER 5

LITTERING

SECTION:

6-5-1: Littering

6-5-2: Deposit Of Refuse Or Garbage On Private Premises

6-5-3: Posting Bills

6-5-4: Placing Advertising Matter In Or Upon Motor Vehicles

6-5-5: Advertisements; Circulars; Wastepaper

6-5-1: LITTERING:

It shall be unlawful to throw, place or deposit upon any street, alley, sidewalk, stream, ditch, ravine, drain or any other public place, or upon the premises of any other person any filth, carrion, offal, trash, waste, manure, ashes, cinders, bottles, cans, broken glass or other rubbish of any kind. (Ord. 328, 2-3-1986)

6-5-2: DEPOSIT OF REFUSE OR GARBAGE ON PRIVATE PREMISES:

It shall be unlawful to place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the City without the consent of the owner or tenant in possession thereof. For the purpose of this Section, vehicles or parts of vehicles not in condition for normal use shall be considered as junk or trash. (Ord. 328, 2-3-1986)

6-5-3: POSTING BILLS:

It shall be unlawful for any person to post any bills or advertisements on any public property without the authority of the City, and it shall be unlawful to post any bill or advertisement on any property without the written consent of the owner thereof. (Ord. 328, 2-3-1986)

6-5-4: PLACING ADVERTISING MATTER IN OR UPON MOTOR VEHICLES:

It shall be unlawful for any person whether a licensed billposter or not, to distribute handbills, circulars, dodgers, pamphlets, cards, pictures, bumper stickers or any advertising matter of any kind whatsoever, by placing the same in or upon any motor vehicles standing or parked in the public street of the City. (Ord. 328, 2-3-1986)

6-5-5: ADVERTISEMENTS; CIRCULARS; WASTEPAPER:

It shall be unlawful to place, deposit, distribute, circulate or scatter any paper, advertisement, handbill, card, circular, or wastepaper, in or upon any public street, alley, public place, automobile or other vehicle parked upon any street or alley, yard or porch of any dwelling, or vestibule or hallway of any building opening on any public street or alley; provided, however, that newspapers and advertising circulars folded therein may be distributed to the dwellings and/or buildings if they are either placed inside the building and/or dwelling, or if they are placed under some object of such weight that they will not be blown by the wind into any public street or alley. (Ord. 38, 12-7-1953)

CHAPTER 6

MINORS

SECTION:

6-6-1: Definition

6-6-2: Time Limits

6-6-3: Exceptions

6-6-4: Responsibility Of Adults

6-6-5: Responsibility Of Business Establishments

6-6-6: Enforcement

6-6-1: DEFINITION:

The term "minor" shall mean any unemancipated person below the age of eighteen (18) years. (Ord. 418, 8-3-1992)

6-6-2: TIME LIMITS:

A. It shall be a violation of this section for any minor who has not attained the age of sixteen (16) years to be or remain upon any of the alleys, streets or public places of the city or within any business establishments of the city between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) A.M. local time, except as provided in section 6-6-3 of this chapter.

B. It shall be a violation of this section for any minor who has attained the age of sixteen (16) years, but has not attained the age of eighteen (18) years, to be or remain upon any of the alleys, streets or public places of the city or within any business establishments of the city between the hours of one o'clock (1:00) A.M. and six o'clock (6:00) A.M. local time, except as provided in section 6-6-3 of this chapter. (Ord. 418, 8-3-1992)

6-6-3: EXCEPTIONS:

The prohibition of the preceding section shall not apply in the following circumstances:

A. To a minor who is under the supervision and control of a legal custodian or under the custody and control of a person not a minor who is authorized by a legal custodian to supervise the minor.

B. To a minor who is attending a church, religious, governmental or school activity, or who is engaged in lawful employment activities, or who is participating in a meeting, gathering, or assembly for the purpose of exercising rights and privileges granted to all citizens, including minors, under the first amendment of the United States constitution.

C. To a minor who is traveling, by any means, from his or her place of employment or an activity described in the preceding sentence, to his or her place of residence. (Ord. 418, 8-3-1992; Ord. 612, 9-20-2004)

6-6-4: RESPONSIBILITY OF ADULTS:

It shall be a violation of this section for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to violate the provisions of this chapter. (Ord. 418, 8-3-1992)

6-6-5: RESPONSIBILITY OF BUSINESS ESTABLISHMENTS:

It is a violation of this section for any person, firm or corporation operating a place of business to allow or permit any minor to be in or upon any such place of business in violation of the provisions of this chapter. (Ord. 418, 8-3-1992)

6-6-6: ENFORCEMENT:

A violation of this chapter shall be a violation of this code punishable by a fine not to exceed the amount of one hundred dollars (\$100.00). Violations may be charged by uniform citation pursuant to the provisions of Iowa Code section 805.16. A violation of this chapter is not an offense within the jurisdiction of the juvenile court pursuant to Iowa Code section 232.8. A minor charged with a violation of this chapter shall not be arrested or taken into custody, except as permitted under Iowa Code sections 232.19 through 232.22. (Ord. 418, 8-3-1992)

CHAPTER 7

ABANDONED PERSONAL PROPERTY

SECTION:

6-7-1: Purpose

6-7-2: Definition

6-7-3: Removal Of Abandoned Property

6-7-4: Notification

6-7-5: Claim By Owner

6-7-6: Sale Of Abandoned Property

6-7-7: Proceeds Of Sale

6-7-1: PURPOSE:

The purpose of this chapter is to provide for removal, storage, and sale of abandoned personal property left on public lands within the city. (Ord. 316, 4-15-1985)

6-7-2: DEFINITION:

"Abandoned property" shall mean any personal property which has been left unattended on or in public property within the city for a continuous period of forty eight (48) hours or more. (Ord. 316, 4-15-1985)

6-7-3: REMOVAL OF ABANDONED PROPERTY:

The police department may cause to be removed and impounded any abandoned property which impoundment shall be in a city owned storage area or privately owned storage area as designated by the city council or the chief of police. (Ord. 316, 4-15-1985)

6-7-4: NOTIFICATION:

If the identity and address of the owner of the abandoned property can be determined with reasonable effort, notification of the impoundment shall be given to the person identified by regular mail. If the owner cannot be identified, notice of impoundment shall be published, in accordance with section 362.3 of the Iowa Code, prior to sale or disposition of the property. (Ord. 316, 4-15-1985)

6-7-5: CLAIM BY OWNER:

If, within thirty (30) days of the mailing or publication of notice, whichever is applicable, or thereafter, the property remains in the possession of the city, the owner makes written request to the police chief and sufficiently identifies the abandoned property, the owner may recover the abandoned property, but only after payment to the city clerk of a storage fee in the amount of one dollar (\$1.00) for each day elapsed from the date of impoundment to, but not including, the date of recovery; except that the daily storage charge for impounded motor vehicles shall be as established by the council, from time to time, by resolution. (Ord. 316, 4-15-1985; Ord. 621, 3-7-2005)

6-7-6: SALE OF ABANDONED PROPERTY:

If, after the elapse of thirty (30) days following mailing or publication of notice, any abandoned property has not been reclaimed as provided in section 6-7-5 of this chapter, the chief of police shall make a determination as to whether the property should be sold. Any property not determined to be salable shall be disposed of. Salable property may be sold at public auction only after publication of notice of the time and place of said auction pursuant to section 362.3 of the Iowa Code. Publications required under section 6-7-4 of this chapter and this section may be combined. (Ord. 316, 4-15-1985)

6-7-7: PROCEEDS OF SALE:

The proceeds from any auction sale or other disposition shall first be applied to the costs of sale, and the remainder shall be deposited in the city's general fund. (Ord. 316, 4-15-1985)

CHAPTER 8

FIRE PROTECTION REGULATIONS

SECTION:**6-8-1: Fire Code Adopted****6-8-2: Obstruction Of Fire Hydrants Or Fire Connections****6-8-1: FIRE CODE ADOPTED:**

The fire code of the state of Iowa, and the rules and regulations of the office of the state fire marshal are hereby adopted as part of this code by this reference. All building construction subject to the state fire code shall comply with its provisions. (1991 Code)

6-8-2: OBSTRUCTION OF FIRE HYDRANTS OR FIRE CONNECTIONS:

No person shall obstruct a fire hydrant or fire connection located on public or private property in the city. For purposes of this section, the term "obstruct" shall mean the parking of vehicles, the placing of personal property, placing or permitting the growth of vegetation, or the placing or the piling of snow within five feet (5') of any fire hydrant or fire connection. (Ord. 465, 9-5-1995)

ARTICLE A. OPEN BURNING

SECTION:**6-8A-1: Purpose****6-8A-2: Open Burning Prohibited****6-8A-3: Exceptions To Burning Prohibition****6-8A-4: Open Burning Sites****6-8A-5: Attendance Of Fire****6-8A-6: Proclamation****6-8A-7: Wind Restrictions****6-8A-8: Open Burning Permits****6-8A-9: Authority Of Public Officers****6-8A-1: PURPOSE:**

The purpose and intent of this article is to prohibit open burning except where there is no other reasonable means of producing a similar public benefit. (1991 Code)

6-8A-2: OPEN BURNING PROHIBITED:

No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain any fire for the purpose of burning or consuming yard waste, refuse, garbage, or other waste material, except as specifically provided in section 6-8A-3 of this article. (1991 Code; Ord. 609, 6-21-2004)

6-8A-3: EXCEPTIONS TO BURNING PROHIBITION:

A. Recreational Fires: Fires for cooking, heating, and recreation. All such fires must use only charcoal; clean, dry, seasoned firewood; natural gas or propane. All such fires shall be within a noncombustible container device, structure or fire ring designed for the purpose of containing a fire. Recreational fires shall be no larger than three feet (3') in diameter and two feet (2') in height.

B. Disaster Rubbish: The open burning of rubbish, including landscape waste, for the duration of a community disaster period in cases where an officially declared emergency exists.

C. Training Fires: Fires set and used for the purpose of bona fide instruction and training of public, institutional or industrial employees in the methods of firefighting.

D. City Landscape Waste Disposal Site: Burning conducted by, or at the direction of, employees of the city department of public works at the city's designated landscape waste disposal site.

E. Incinerators: Incinerators operated by permit issued by the Iowa department of natural resources, when operated in accordance with the permit.

F. Open Burning By Permit: Such open burning activities for which an open burning permit has been requested from, and issued by, the Spencer fire chief or his designee. Open burning activities for which a permit may be issued include: ceremonial fires for groups or organizations; prescribed landscape fires for the maintenance of native prairie grasses and agricultural areas; and such other open burning activities as are deemed necessary and appropriate. (1991 Code; Ord. 609, 6-21-2004; Ord. 679, 10-20-2008)

6-8A-4: OPEN BURNING SITES:

It shall be unlawful to start, maintain or allow open burning on any pavement, street, avenue, alley, or other public right of way; or on any private ground within ten feet (10') of any building (including overhangs), woodpile, wooden structure or other property subject to damage by fire, including wooden patios and wooden decks. (Ord. 679, 10-20-2008)

6-8A-5: ATTENDANCE OF FIRE:

All open burning shall be constantly attended by a competent person until the fire is extinguished. (1991 Code; Ord. 679, 10-20-2008)

6-8A-6: PROCLAMATION:

The mayor or chief of the fire department may prohibit open burning during periods of extremely dry conditions or under other conditions when open burning is dangerous to life or property. Such a prohibition shall be implemented by proclamation which shall be posted at the fire station and at city hall and shall be distributed to all newspapers and radio stations located in the city. (1991 Code)

6-8A-7: WIND RESTRICTIONS:

No fire shall be ignited or maintained when the velocity of the wind exceeds twenty (20) miles per hour. (Ord. 679, 10-20-2008)

6-8A-8: OPEN BURNING PERMITS:

Any person who desires to accomplish open burning in the city pursuant to the provisions of subsection 6-8A-3F of this article may submit an application for approval of an open burning permit. No application fee is required. Upon receipt of such an application, the fire chief or his designee shall investigate the application and shall determine, in his discretion, whether the permit should be denied or granted and, if granted, under what conditions or limitations.

In granting an open burning permit, the fire chief shall consider potential damage to property or persons; potential adverse effects of smoke and other products of combustion; alternative disposal methods available; and the relative costs of alternative disposal methods. (Ord. 609, 6-21-2004)

6-8A-9: AUTHORITY OF PUBLIC OFFICERS:

The Spencer fire chief, assistant chiefs or full time employees of the Spencer fire department and sworn Spencer police officers may require that any open burning activity in the city be immediately discontinued, if the officer determines the activity to be in violation of the provisions of this chapter or to be potentially harmful to persons or property. (Ord. 609, 6-21-2004)

ARTICLE B. FIREWORKS

SECTION:

6-8B-1: Permit For Fireworks Displays

6-8B-2: First-Class Consumer Fireworks Prohibited

6-8B-3: Criteria

6-8B-4: Permit Fee

6-8B-5: Liability Insurance

6-8B-1: PERMIT FOR FIREWORKS DISPLAYS:

The Spencer Fire Chief, or his designee, as the delegated representative of the Spencer City Council, pursuant to section 727.2 of the Code of Iowa as amended, upon application in writing upon forms provided by the City Clerk, may grant a permit for the display of fireworks by municipalities, fair associations, amusement parks and other organizations or groups of individuals; provided, such fireworks displays will be handled and supervised by a competent operator with prior experience in the handling of fireworks displays and who provides proof of certification by ATF, the State of Iowa, or a certificate of compliance issued by the Pyrotechnic Guild. The denial of a permit may be appealed to the City Council. (Ord. 754, 8-19-2013)

6-8B-2: FIRST-CLASS CONSUMER FIREWORKS PROHIBITED:

The use of "first-class consumer fireworks" within the corporate limits of the City of Spencer, except as otherwise provided in this article, is prohibited. A violation of this section is a simple misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00). (Ord. 818, 6-5-2017)

6-8B-3: CRITERIA:

In approving or denying a request for a permit to conduct a fireworks display, the Council shall consider:

- A. The type and nature of displays;
- B. The location;
- C. The anticipated or invited attendance;
- D. The qualifications of the operator;
- E. Safety and fire protection planning; and
- F. All other factors relevant to a particular application.

Different criteria apply to pyrotechnics before a proximate crowd and outdoor displays. Applicable standards include IFC chapter 33; NFPA 1123, 1126; ATF safe firework practices. (Ord. 257, 6-7-1982; Ord. 754, 8-19-2013)

6-8B-4: PERMIT FEE:

No permit fee shall be required for a fireworks permit if the fireworks display is open to the public without charge. If the fireworks display is presented at an event to which admission is charged, a permit fee of fifty dollars (\$50.00) is required. (Ord. 754, 8-19-2013)

6-8B-5: LIABILITY INSURANCE:

An applicant for a fireworks permit shall provide a certificate of liability insurance for the specific event with a single limit of not less than two million dollars (\$2,000,000.00) naming the City of Spencer, its officers, agents and employees as additional insureds. (Ord. 754, 8-19-2013)

CHAPTER 9

ROLLER SKATES AND SKATEBOARDS

SECTION:

6-9-1: Definitions

6-9-2: Prohibitions

6-9-3: Speed

6-9-4: Private Property

6-9-5: Enforcement Procedure

6-9-1: DEFINITIONS:

PEDESTRIAN DISTRICT: Includes that area of the city within the following described boundaries, but shall not include property adjacent to, but outside the boundary:

Beginning at the intersection of West Third Street and Fourth Avenue West; thence north on the center line of Fourth Avenue West, to the intersection with West Fourth Street; thence east on the center line of West Fourth Street to the intersection with Third Avenue West; thence north on the center line of Third Avenue West, extended, to the center line of West Eighth Street; thence east on the center line of West Eighth Street to the center line of Second Avenue East; thence south on the center line of Second Avenue East, extended, to the center line of East Park Street; thence west on the center line of East Park Street to the center line of Second Avenue West; thence north on the center line of Second Avenue West to the center line of West Third Street; thence west on the center line of West Third Street to the intersection with Fourth Avenue West, the point of beginning.

PRIVATE PROPERTY: Includes all property other than a "public way" as that term is defined herein.

PUBLIC WAY: Includes all public streets, alleys, sidewalks and parking lots.

ROLLER SKATES: Includes all devices which incorporate wheels or rollers designed or intended to bear and carry the weight of a person, which have no motive power and which are intended to be moved or propelled by the physical efforts of the user or by gravity and which are attached to the feet of the user. Such devices include shoe roller skates, clamp-on roller skates, and rollerblades, but do not include bicycles.

SKATEBOARDS: Includes devices incorporating wheels or rollers, which are designed or intended to bear and carry the weight of a

person, which have no motive power, and which are intended to be moved or propelled by the physical efforts of the user or by gravity, and which are not customarily attached or physically connected to the user during use. Such devices include skateboards and scooters, but do not include bicycles. (Ord. 397, 2-18-1991; Ord. 415, 5-18-1992; Ord. 505, 10-5-1998)

6-9-2: PROHIBITIONS:

A. No person shall use or operate skateboards on any public way in the pedestrian district of the city, nor at any other location in the city where official signs are posted prohibiting the use of skateboards.

B. Roller skates may be used upon the sidewalks of the city, except on Grand Avenue between Park Street and 8th Street and one block east and west from Grand Avenue on Third Street, Fourth Street, Fifth Street, and West Sixth Street. (Ord. 397, 2-18-1991; Ord. 505, 10-5-1998)

6-9-3: SPEED:

No person shall use or operate roller skates or skateboards at a speed or in a manner which is unsafe or creates a risk to other persons under circumstances then existing. (Ord. 397, 2-18-1991)

6-9-4: PRIVATE PROPERTY:

No person shall use or operate roller skates or skateboards on private property within the city except with the permission of the owner or person in control of the property. (Ord. 397, 2-18-1991)

6-9-5: ENFORCEMENT PROCEDURE:

A. Violations of the provisions of this chapter may be prosecuted by the issuance of a uniform citation or complaint or by a simple notice of fine. If the simple notice of fine procedure is followed, the fine shall be five dollars (\$5.00) if paid within thirty (30) days of the date of the notice of the fine. The fine shall increase to the amount of ten dollars (\$10.00) if not paid within thirty (30) days of the date of notice of the fine. The fine shall be payable to the city and shall be paid at the Spencer Police Department, 405 1st Avenue West, Spencer, Iowa 51301.

B. If the "notice of fine" is denied or not paid, violations of this chapter may be prosecuted by complaint or uniform citation pursuant to the provisions of sections 805.7 through 805.13, inclusive, of the Iowa Code as any other traffic violation. (Ord. 505, 10-5-1998; Ord. 536, 8-21-2000)

CHAPTER 10

TRUANCY

SECTION:

6-10-1: Definitions

6-10-2: Truancy Prohibited

6-10-3: Exceptions

6-10-4: False Excuse Prohibited

6-10-5: Responsibility Of Parents Or Guardians

6-10-6: Enforcement Procedures

6-10-7: Penalties

6-10-1: DEFINITIONS:

For purposes of this chapter, the following terms are defined:

MINOR: Any person under the age of eighteen (18) enrolled in a public, private or parochial school within the corporate limits of the city of Spencer, Iowa.

TRUANT: To be absent from school at a time when attendance is required. (Ord. 662, 10-1-2007)

6-10-2: TRUANCY PROHIBITED:

It shall be unlawful for any person under the age of eighteen (18), who is enrolled in a public, private or parochial school within the corporate limits of the city of Spencer, to absent himself or herself from attendance at school during times of required attendance, unless one or more of the exceptions described in the following section apply. (Ord. 662, 10-1-2007)

6-10-3: EXCEPTIONS:

Section 6-10-2 of this chapter shall not apply under the following circumstances:

A. When parental or guardian permission for nonattendance has been given for reasons of the student's illness, a serious family illness, death in the family, or other bona fide emergency or compelling family reason.

B. To persons age sixteen (16) or older who are not enrolled in school or who have chosen to lawfully withdraw from school.

C. To a student who has completed the requirements for graduation from an accredited school or has obtained a high school equivalency diploma under chapter 259A of the Iowa Code.

D. To a student who is excused for sufficient reason by any court of record or judge.

- E. While attending religious services or receiving religious instruction.
- F. To a student who is attending an accredited private college preparatory school.
- G. To a student excused pursuant to the provisions of section 299.22 of the Iowa Code (students with disabilities).
- H. To a student excused pursuant to section 299.24 of the Iowa Code.
- I. To a student receiving private instruction in accordance with the provisions of chapter 299A of the Iowa Code. (Ord. 662, 10-1-2007)

6-10-4: FALSE EXCUSE PROHIBITED:

It shall be a violation of this section for a parent or guardian to knowingly submit, to school authorities or city authorities, a written excuse under section 6-10-3 of this chapter, that contains false information. (Ord. 662, 10-1-2007)

6-10-5: RESPONSIBILITY OF PARENTS OR GUARDIANS:

It is unlawful for a parent or guardian to knowingly permit or to allow a minor to violate the provisions of section 6-10-2 of this chapter. (Ord. 662, 10-1-2007)

6-10-6: ENFORCEMENT PROCEDURES:

A peace officer who has been appointed a truant officer by the school board, pursuant to sections 299.10 and 299.11 of the code of Iowa, may, without warrant, take into custody any apparently truant minor and place the minor in charge of the school principal or principal's designee in the Spencer Community School District or, alternatively, the principal or principal's designee of any nonpublic or parochial school in which the minor has been enrolled by his or her parent or guardian. If a minor is taken into custody pursuant to this section, the officer shall make a reasonable attempt to immediately notify the parent, guardian or other legal custodian of the minor's location.

The officer shall have discretion as to whether to issue a citation to the minor and/or the parent, guardian or other legal custodian.

The provisions of this section do not authorize a peace officer to enter any dwelling or other building without a warrant. (Ord. 662, 10-1-2007)

6-10-7: PENALTIES:

Any person who violates the provisions of this chapter shall be guilty of a simple misdemeanor and, upon conviction, shall be subject to punishment by a fine not to exceed five hundred dollars (\$500.00), imprisonment not to exceed thirty (30) days, and/or a community service requirement. (Ord. 662, 10-1-2007)

CHAPTER 11

SOCIAL HOSTS

SECTION:

6-11-1: Definitions

6-11-2: Prohibited Acts

6-11-3: Exceptions

6-11-4: Penalties

6-11-5: Previous Offense

6-11-1: DEFINITIONS:

ALCOHOLIC BEVERAGE: The same as defined in Iowa Code section 123.3(4).

EVENT, GATHERING, OR PARTY: Any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.

PARENT: Any person having legal custody of a juvenile: a) as a natural parent, adoptive parent, or stepparent; b) as a legal guardian; or c) as a person to whom legal custody has been given by order of the court.

PERSON: Any individual, partnership, corporation, or any association of one or more individuals.

POSSESSION OR CONTROL: Actual possession or constructive possession based on facts which permit the inference of intent to possess or control alcoholic beverages.

PREMISES: Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, other dwelling unit, hall or meeting room, garage, barn, park, or any other place conducive to assembly, public or private, whether occupied on a permanent or temporary basis, whether occupied as a dwelling or specifically for an event, gathering, or party, and whether owned, leased, rented or used with or without permission or compensation.

SOCIAL HOST: Any "person" as defined in this section who aids, allows, entertains, organizes, supervises, controls or permits an event, gathering, or party in violation of the provisions of this chapter. This includes, but is not limited to: a) the person(s) who has the right to use and occupy the premises where the event, gathering, or party takes place whether by ownership, pursuant to a rental agreement, a lease, as a hotel or motel lodger, or otherwise; b) the person(s) in charge of the premises; or c) the person(s) responsible for organizing the event, gathering, or party.

Owners of rental property or lodging facilities are not "social hosts" solely by virtue of ownership.

UNDERAGE PERSON: Any person under the age of twenty one (21). (Ord. 709, 9-20-2010)

6-11-2: PROHIBITED ACTS:

It is unlawful for any social host to host an event, gathering or party at which underage persons are knowingly permitted or allowed to consume alcoholic beverages, or are knowingly permitted or allowed to possess alcoholic beverages on the premises, whether or not the social host is present on the premises. (Ord. 709, 9-20-2010)

6-11-3: EXCEPTIONS:

This chapter shall not apply to:

- A. Conduct solely between an underage person and his or her parents while present in the parents' household,
- B. Legally protected religious observances, or
- C. Situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

These exceptions shall not apply under circumstances in which the underage person leaves the home, religious gathering, or place of employment and subsequently violates Iowa Code section 123.46(2) (consumption or intoxication in public places). (Ord. 709, 9-20-2010)

6-11-4: PENALTIES:

A violation of this chapter shall be enforced as a civil infraction pursuant to title 1, chapter 4, article A of this code. A seven hundred fifty dollar (\$750.00) civil penalty shall be imposed for a social host's first offense; a one thousand dollar (\$1,000.00) civil penalty for a social host's second offense. (Ord. 709, 9-20-2010)

6-11-5: PREVIOUS OFFENSE:

In determining if a violation charged is a second or subsequent offense, conviction for a violation of this chapter, or an ordinance of any city or county in the state of Iowa that substantially corresponds to this chapter, shall be considered as a previous offense. (Ord. 709, 9-20-2010)

TITLE 7

MOTOR VEHICLES AND TRAFFIC

CHAPTER 1

TRAFFIC CODE

SECTION:

7-1-1: Purpose

7-1-2: Short Title

7-1-3: Definitions

7-1-4: Exceptions; Variances

7-1-1: PURPOSE:

The purpose of this Title is to regulate traffic upon and use of the streets of the City and to provide for the enforcement of these regulations through a traffic division headed by the Chief of Police. (Ord. 97, 6-19-1961)

7-1-2: SHORT TITLE:

This Title may be known and cited as the *TRAFFIC CODE*. (Ord. 97, 6-19-1961)

7-1-3: DEFINITIONS:

Where words and phrases used in this Title are defined by the laws of Iowa, such definitions shall apply to this Code. (Ord. 97, 6-19-1961)

7-1-4: EXCEPTIONS; VARIANCES:

A. Temporary Uses; Emergencies: The Chief of Police is hereby granted the authority to permit exceptions or variances to the requirements of the City Code sections set out in subsection C of this Section, only in the case of an emergency or for a period not to exceed eight (8) hours in any seventy two (72) hour period.

B. Council Authorization: Any person desiring to park or use a vehicle in violation of the sections of this Code set out in subsection C of this Section other than in those circumstances described in subsection A of this Section may make application to the City Council for authorization to be granted to the Council for the use desired. All such applications shall be in writing, shall contain the name and address of the applicant, shall describe the variance or exception requested, shall indicate the date, time and location for which the exception or variance is requested and shall include a pictorial plat depicting the area and use for which the exception or variance is requested.

Upon review and consideration of an application under this Section, the Council may approve the application by majority vote. The application may be approved upon such conditions or limitations as deemed appropriate by the Council or denied if deemed not in the public interest, as being inconsistent with public safety, or if in violation of any other provision of this Code or applicable State law.

C. Exception Or Variance: The provisions of the following numbered sections of the traffic code may be subject to the grant of an exception or variance as described in subsection A or B of this Section:

7-3-7C Vehicles On Sidewalks

7-5-1 Method Of Parking

7-5-1C Angle Parking

7-5-4 Obedience Required

7-5-5D All-Night Parking Prohibited

7-5-5E Truck Parking

(Ord. 321, 9-3-1985; 1991 Code; Ord. 512, 2-15-1999)

CHAPTER 2

TRAFFIC ADMINISTRATION AND ENFORCEMENT

SECTION:

7-2-1: Police Administration; Traffic Division

7-2-2: Traffic Accident Studies

7-2-3: Traffic Accident Reports

7-2-4: Investigation Of Accidents Reported

7-2-5: Drivers' Files Maintained

7-2-6: Annual Safety Reports

7-2-7: Enforcement

7-2-8: Alternative Traffic Violation Enforcement

7-2-1: POLICE ADMINISTRATION; TRAFFIC DIVISION:

There is hereby established in the Police Department a Traffic Division to be under the control of the Chief of Police. (Ord. 97, 6-19-1961)

7-2-2: TRAFFIC ACCIDENT STUDIES:

Whenever the accidents at any particular location become numerous, the Traffic Division shall conduct studies of such accidents and propose remedial measures. (Ord. 97, 6-19-1961)

7-2-3: TRAFFIC ACCIDENT REPORTS:

The Traffic Division shall prepare a written report of each accident investigated and shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. (Ord. 97, 6-19-1961)

7-2-4: INVESTIGATION OF ACCIDENTS REPORTED:

The Traffic Division shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator. (Ord. 97, 6-19-1961)

7-2-5: DRIVERS' FILES MAINTAINED:

The Traffic Division shall maintain a suitable record of all traffic accidents, warning, arrest, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned. Said Traffic Division shall study the cases of all drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident and shall attempt to discover the reasons therefor and shall take whatever steps are lawful and reasonable to prevent the same or to have the license of such persons suspended or revoked.

Such records shall accumulate during at least a ten (10) year period and from the time on such records shall be maintained complete for at least the most recent ten (10) year period. (Ord. 97, 6-19-1961)

7-2-6: ANNUAL SAFETY REPORTS:

The Traffic Division shall prepare annually a traffic report which shall be filed with the Mayor. Such report shall contain information on traffic matters in this City concerning the number of traffic accidents, the number of persons killed and injured, the number and nature of violations and other pertinent traffic data including the plans and recommendations for future traffic safety activities. (Ord. 97, 6-19-1961)

7-2-7: ENFORCEMENT:

A. Authority Of Officials:

1. Police And Fire Department Officials: Provisions of this Code and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the Police Department.

The officers of the Police Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the Police Department may direct traffic as conditions require, notwithstanding the provisions of the traffic laws.

Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

2. Traffic Officers: It shall be unlawful to refuse to or fail to obey the instructions of any traffic control officer or flagman.

B. Obedience To Laws Required: Failure of any person to abide by the provisions of this Code and Iowa statutory law relating to motor vehicles and the statutory law of the road is a violation of this chapter.

EDMS Section "X": For purposes of the Iowa Electronic Document Management System (EDMS), this subsection of this Code may also be cited and referred to as section X. (Ord. 97, 6-19-1961; Ord. 328, 2-3-1986; Ord. 834, 9-17-2018)

7-2-8: ALTERNATIVE TRAFFIC VIOLATION ENFORCEMENT:

A. Violations: The following specific violations may be enforced through the provisions of this section:

Violation	References	
	Iowa Code Section	This Code
A violation of graduated driver's license conditions	321.180B	
All-terrain vehicle operating violations	321.234A	Chapter 14 of this title
Unlawful golf cart operation	321.247	Chapter 10 of this title
Failure to obey official traffic control devices	321.256	Section 7-3-2 of this title
Careless driving	321.277A	
Excessive speed	321.285	Section 7-3-8 of this title
Failure to obey stop or yield sign	321.322	
Failure to wear seat belt	321.445	
Failure to secure child	321.446	

B. Officer's Discretion; Notice Of Violation: In the discretion of the police officer, if conditions warrant, the officer may issue a "notice of violation" in regard to any of the offenses listed in subsection A of this section, in lieu of the statutorily prescribed citation.

C. Prohibitions: No "notice of violation" shall be issued pursuant to this section if any motor vehicle collision or personal injury resulted from the violation, if the driver was alcohol impaired, or if the driver had been issued a "notice of violation" under this section in the six (6) months preceding the date of violation.

D. Civil Penalty: The penalty for a "notice of violation" under this section is the amount of one hundred dollars (\$100.00). Payment of the civil penalty may be made at the Office of the Spencer Police Department, 405 1st Avenue West, Spencer, Iowa. If a "notice of violation" is issued and the civil penalty is not paid within thirty (30) days of the date of the violation, or if the driver denies the violation, the issuing officer shall cancel the "notice of violation" and issue a citation to be processed through the court system in the normal procedure.

E. Reporting Of Violation: No report or information concerning the issuance of a "notice of violation" shall be sent or reported to the Iowa Department of Transportation, or similar department of any other state, for the purpose of adding to the driver's driving record.

F. Records: The Spencer Police Department shall develop a form of "notice of violation" to be issued pursuant to this section, shall maintain complete and adequate records as to "notice of violations" issued, civil penalties paid, and of "notice of violations" which are unpaid or denied. (Ord. 711, 10-18-2010)

CHAPTER 3

TRAFFIC RULES AND REGULATIONS

SECTION:

7-3-1: One-Way Streets And Alleys

7-3-2: Stop; Yield Intersections

7-3-3: Turning Movements

7-3-4: School Buses

7-3-5: Pedestrians

7-3-6: Control Of Vehicle

7-3-7: Prohibited Acts

7-3-8: Speed Limits

7-3-9: Streets; Alleys Designated

7-3-10: Through Streets

7-3-11: Weight Limitations ¹ (Rep. by Ord. 716, 4-18-2011)

7-3-12: Reserved

7-3-13: School Zones, Stop Signs

7-3-14: Engine Brakes And Compression Brakes

Notes

- ¹ 1. See section 7-6-2 of this title.

7-3-1: ONE-WAY STREETS AND ALLEYS:

A. Authority To Designate: Whenever any provision of this code designates any one-way street or alley, the traffic division shall place and maintain signs giving notice thereof, and no such regulations shall be effective when such signs are not in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this chapter.

B. Movement Restricted During Certain Periods: The chief of police, as head of the traffic division, is hereby authorized to determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The chief of police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this chapter. (Ord. 97, 6-19-1961)

7-3-2: STOP; YIELD INTERSECTIONS:

A. Erection And Maintenance Of Signs: At the intersections of through highways and at intersections upon streets other than through highways where, because of heavy cross traffic or other traffic conditions, particular hazard exists, the chief of police, as head of the traffic division, is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to any such intersection, and the traffic division shall erect a stop sign or yield sign as appropriate at every such place where a stop or yield is required. All stop signs and yield signs now in place in the city are hereby authorized, ratified and confirmed and shall be maintained by the chief of police, as head of the traffic division.

B. Authority To Erect Signs: Whenever any provisions of this code designates and describes a through highway, it shall be the duty of the traffic division to place and maintain a stop or yield sign on each and every street intersecting such through highway except as hereinafter modified in case of intersecting through highways. (Ord. 97, 6-19-1961)

7-3-3: TURNING MOVEMENTS:

A. Authority; Placement Of Restricted Turn Signs: The chief of police, as head of the traffic division, is hereby authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of such turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

B. Turning Markers; Buttons; Signs: The chief of police, as head of the traffic division, may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified by the state law be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

C. Obedience To No Turn Signs: Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

D. U-Turns: It shall be unlawful for a driver to make a U-turn except at an intersection; provided, however, that U-turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals. (Ord. 97, 6-19-1961)

7-3-4: SCHOOL BUSES:

A. State Code To Apply: Pursuant to authority conferred by section 321.372, Iowa Code, as amended, the provisions thereof are hereby made applicable to the operation of school buses upon the streets of the business and residential districts of Spencer, Iowa, except, amber and red flashing warning lights and extension of the stop arm shall not be used when receiving or discharging pupils at school buildings. Any violation of said provisions shall be deemed a violation of this Section.

B. Definition: For purposes of this Section, "school bus" shall be defined as set out in section 321.1(27), Code of Iowa. (Ord. 175, 2-24-75)

7-3-5: PEDESTRIANS:

A. Prohibited Crossing: Pedestrians crossing a street in the business district shall cross in the crosswalks only.

B. Pedestrians on Left: Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided, pedestrians shall at all times when walking on or along a roadway, walk on the left side of such roadway. (Ord. 97, 6-19-61)

7-3-6: CONTROL OF VEHICLE:

The person operating a motor vehicle or motorcycle shall have the same under control and shall reduce the speed to a reasonable and proper rate:

A. When approaching and passing a person walking in the traveled portion of the public street or highway.

B. When approaching and passing an animal which is being led, ridden or driven upon a public street or highway.

C. When approaching and traversing a crossing or intersection of public streets or highways, or a sharp turn or curve, or a steep descent in a public street or highway.

D. When approaching or passing a fusee, flares, electric lanterns, red reflectors or red flags on any public street or highway.

E. When approaching and passing any parked vehicle or other object parked legally upon or adjacent to a roadway. (1969 Code)

7-3-7: PROHIBITED ACTS:

A. Careless Driving: Every person operating a vehicle shall drive the same in a reasonable and prudent manner, having due regard for the actual and potential hazards then existing, shall keep a proper outlook for such actual and potential hazards and shall keep his vehicle under control so as not to endanger or collide with person or property. Failure to observe any of the requirements hereof shall constitute careless driving.

B. Nuisance Driving: Any person who drives any vehicle in such a manner as to annoy, irritate or interfere with the rights of another person or persons is guilty of nuisance driving, or the causing of a vehicle to be accelerated, decelerated or turned in such a manner as to cause the tires to produce excessive or loud noises, except when necessary to prevent an accident.

C. Vehicles on Sidewalks: The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

D. Clinging to Vehicles: No person shall drive a motor vehicle on the streets of this City unless all passengers of said vehicles are inside said vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach same or himself to any vehicle upon a roadway.

E. Coasting: In the area between Park and Eighth Streets and First Avenue East and First Avenue West, it shall be unlawful to coast or slide on any sidewalk, street or alley by means of any sled, coaster, wagon, roller skates or skateboards.

F. Loud Signals at Night: Loud signaling devices shall not be used during the period from one hour after sunset to one hour before sunrise, unless absolutely necessary to avoid accidents. (Ord. 97.4, 1967; 1969 Code; Ord. 328, 2-3-86)

7-3-8: SPEED LIMITS:

It is determined that the speed permitted by State law upon the following streets or portions thereof is greater or less than necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof shall be as follows:

Twenty Miles Per Hour.

EAST SECOND STREET from Sixth Avenue East to Eighth Avenue East, from and including the fourth Monday of August of each year, to and including the fourth Monday of May of each year.

EAST THIRD STREET from Sixth Avenue East to Tenth Avenue East, from and including the fourth Monday of August of each year, to and including the fourth Monday of May of each year.

FOURTH AVENUE SOUTHWEST from Fourth Street Southwest to Tenth Street Southwest. (Lincoln School)

EAST FOURTH STREET from First Avenue East to Second Avenue East; Third Street from First Avenue East to a point 264 feet east of the east right-of-way line of First Avenue East. (Junior High School)

SIXTH AVENUE EAST from East Second Street to East Third Street; Eighth Avenue East from East Second Street to East Third Street. (Reynold's School - High School)

EAST NINTH STREET from the east line of Tenth Avenue East, easterly to the termination of East Ninth Street.

WEST NINTH STREET from Seventh Avenue West to a point 69 feet east of the east right of way line of Ninth Avenue West. (Johnson School)

EAST TENTH STREET from Fourth Avenue East to Fifth Avenue East; Fifth Avenue East from East Tenth Street to East Eleventh Street; East Eleventh Street from Fourth Avenue East to Fifth Avenue East; Fourth Avenue East from East Tenth Street to East Eleventh Street. (Jefferson School)

EAST FOURTEENTH STREET from Fifth Avenue East to Seventh Avenue East; Seventh Avenue East from East Fourteenth Street to East Sixteenth Street; East Sixteenth Street from Fifth Avenue East to Seventh Avenue East; Fifth Avenue East from East Fourteenth Street to East Sixteenth Street. (Fairview School)

Twenty Five Miles Per Hour.

FOURTH STREET SOUTHWEST from Fourth Avenue Southwest to Eleventh Avenue Southwest.

4th STREET SOUTHEAST and 10th Avenue southeast from Grand Avenue to Highway 18.

7th AVENUE SOUTHWEST.

8th STREET SOUTHWEST.

ELEVENTH AVENUE SOUTHWEST from the south line of Fourth Street Southwest to a point, measured southwesterly along the centerline of Eleventh Street Southwest, 700 feet southwest of the intersection of the centerlines of Sixth Street Southwest and Eleventh Avenue Southwest, 25 miles per hour. From this point of demarcation to the north line of U.S. Highway 71, 35 miles per hour.

11th STREET SOUTHWEST PLAZA.

12th STREET SOUTHWEST from South Grand Plaza Drive to 4th Avenue southwest.

Thirty Five Miles Per Hour

GRAND AVENUE from Ninth Street to Seventeenth Street.

SOUTH GRAND AVENUE from its junction with U.S. Highways 18 and 71 to the south end of the bridge over the Little Sioux River.

HIGHWAY BOULEVARD (U.S. Highways 71 and 18) from Seventeenth Street to 180 feet south of West Twenty Third Street.

SECOND AVENUE SOUTHEAST from 175 feet south of the centerline of U.S. Highway 18 to 410 feet south of the centerline of Grandview Boulevard.

FOURTH AVENUE WEST from West Eighteenth Street to the city's north corporate limits.

4th AVENUE SOUTHWEST from the intersection with 25th Street SW north a distance of 2,900 feet.

EAST FOURTH STREET for westbound traffic, from a point 1,300 feet west of the east corporate limits to a point 2,900 feet west of the east corporate limits.

WEST FOURTH STREET from a point 600 feet west of Tomkins Court to a point 1,125 feet west of Tomkins Court.

TENTH AVENUE EAST from the north line of East Milwaukee Street to a point 1,345 feet north of the north line of East Eighteenth Street.

ELEVENTH AVENUE WEST from West Fourteenth Street to West Eighteenth Street.

THIRTEENTH STREET SOUTHWEST.

EAST EIGHTEENTH STREET from Seventh Avenue East to Tenth Avenue East.

Forty Miles Per Hour

WEST FOURTH STREET from a point 1,125 feet west of Tomkins Court to a point 200 feet west of Thirty Sixth Avenue West.

Forty Five Miles Per Hour

HIGHWAY BOULEVARD (U.S. Highways 71 and 18) from 180 feet south of West Twenty Third Street northward to a point 920 feet north of West Twenty Fourth Street.

U.S. HIGHWAY 18 EAST, from its south junction with U.S. Highway 71 to a point 3,800 feet east.

U.S. HIGHWAY 71 from its south junction with U.S. Highway 18 to a point 2,300 feet west.

SECOND AVENUE SOUTHEAST from 410 feet south of the centerline of Grandview Boulevard to 175 feet south of the centerline of Nineteenth Street Southeast.

EAST FOURTH STREET for westbound traffic, from the east corporate limits to a point 1,300 feet west of the east corporate limits.

TENTH AVENUE EAST from a point 1,345 feet north of the north line of East Eighteenth Street to the city's north corporate limits.

WEST EIGHTEENTH STREET from Fourth Avenue West to Thirty Second Avenue West; except that from 12:00 midnight on September 3 through 12:00 midnight on September 20 of each year, the applicable speed limit from Fourth Avenue West to a point of 60 feet east of the centerline of Eleventh Avenue West shall be 20 miles per hour, and during the same time period, the speed limit from a point of 60 feet east of the centerline of Eleventh Avenue West to a point 565 feet west of the centerline of Eleventh Avenue West shall be 35 miles per hour. Said temporary reduced speed limits shall be in force only during the period stated and only after appropriate signs have been posted providing notice of reduced speed limits.

Fifty Miles Per Hour

HIGHWAY BOULEVARD (U.S. Highways 71 and 18) from a point 920 feet north of West Twenty Fourth Street to a point 340 feet south of Thirtieth Street.

(Ord. 97.5, 4-1-1968; Ord. 199, 10-18-1976; Ord. 222, 12-4-1978; Ord. 229, 8-20-1979; Ord. 230, 1-21-1980; Ord. 240, 1-19-1981; Ord. 243, 5-14-1981; Ord. 270, 12-20-1982; Ord. 275, 5-2-1983; Ord. 322, 9-3-1985; Ord. 357, 3-21-1988; Ord. 383, 10-2-1989; Ord. 410, 1-20-1992; Ord. 530, 6-19-2000; Ord. 574, 7-15-2002; Ord. 787, 8-17-2015)

7-3-9: STREETS; ALLEYS DESIGNATED:

Upon the following streets and alleys vehicular traffic shall move in the indicated directions:

A. Westerly and two-way:

On the alley extending east and west through block H, original town plat from Grand to First Avenue East, vehicular traffic shall move westerly, with only a right (northerly) turn allowed onto Grand Avenue.

On the alleys extending east and west through blocks A, F and L, original town plat, and blocks 6 and 12, Lovewell and Hubbard's Addition to the city from Grand Avenue to Second Avenue West, vehicular traffic shall move westerly.

On the east and west alley located in block G, original town plat, and block 7, Lovewell and Hubbard's Addition to the city, vehicular traffic shall move in a westerly direction from Grand Avenue a distance of 121 feet to the west; this portion of the alley shall be designated as a one-way alley. From the point 121 feet west of Grand Avenue to the alley's intersection with Second Avenue West, the alley shall be designated as a two-way alley and traffic shall be permitted to move in both an easterly and westerly direction.

On West Sixth Street from Grand Avenue to First Avenue East vehicular traffic shall move westerly.

B. Easterly:

On the alleys extended east and west through blocks B and E, original town plat of the city, from Grand Avenue to First Avenue East, vehicular traffic shall move easterly.

In block K, said east-west alley shall be designated as a one-way alley allowing vehicle traffic in an easterly direction only from the east right of way line of Grand Avenue, a distance of 32 feet east, and this alley, from that point east to the alley's intersection with First Avenue East, shall be designated a two-way alley.

On East Park Street from the intersection with Grand Avenue easterly to the intersection with First Avenue East, traffic movement shall be one-way in an easterly direction.

C. Northerly:

On the north and south alley through blocks 27 and 30 of the Chicago, Milwaukee and St. Paul Railway addition to the city, from East Fourth Street North to East Seventh Street, vehicular traffic shall move northerly.

On Grand Avenue between Seventeenth Street and Eighteenth Street, vehicular traffic shall move northerly.

D. Southerly:

On the north and south alley through blocks 26 and 31 of the Chicago, Milwaukee and St. Paul Railway addition to the city, from West Fourth Street North to West Seventh Street, vehicular traffic shall move southerly. (Ord. 97.1, 7-3-1961; Ord. 317, 5-6-1985; Ord. 342, 11-17-1986; Ord. 419, 8-3-1992; Ord. 493, 4-20-1998; Ord. 802, 5-16-2016)

7-3-10: THROUGH STREETS:

Streets or portions of streets described below are hereby declared to be through highways:

South Grand Avenue, Grand Avenue from Park Street to Seventeenth Street and Highway Boulevard.

Fourth Avenue East from East Park Street to East Fourth Street.

Fourth Avenue East from East Fourth Street to East Eighteenth Street.

Fourth Avenue West from West Fourth Street to West Eighteenth Street.

East Fourth Street from First Avenue to the east city corporation limits.

West Fourth Street from Grand Avenue to the west city corporation limits.

East Eighteenth Street from Grand Avenue to Tenth Avenue East.

West Eighteenth Street from Highway Boulevard to Fourth Avenue West.

West Eighteenth Street from East Eighteenth Street to Highway Boulevard. (Ord. 97, 6-19-1961)

7-3-11: WEIGHT LIMITATIONS ¹ :

(Rep. by Ord. 716, 4-18-2011)

Notes

¹ 1. See section 7-6-2 of this title.

7-3-12: RESERVED:

(Ord. 97, 6-19-1961; 1991 Code; Ord. 512, 2-15-1999)

7-3-13: SCHOOL ZONES, STOP SIGNS:

School stop crosswalk signs shall be maintained by the traffic division at the locations designated by council resolution and all vehicles shall be required to stop before entering and crossing said crosswalks in compliance with the Iowa Code ¹ . (Ord. 97, 6-19-1961; 1991 Code)

Notes

7-3-14: ENGINE BRAKES AND COMPRESSION BRAKES:

A. It shall be unlawful for the driver of any vehicle to use or operate, or to cause to be used or operated, within the city any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessively loud, unusual or explosive noise from such vehicle, except for the aversion of immediate and imminent danger.

B. The use of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

C. The scheduled fine for a violation of this section shall be one hundred dollars (\$100.00). (Ord. 631, 8-1-2005)

CHAPTER 4

TRAFFIC CONTROL

SECTION:

7-4-1: Authority To Install

7-4-2: Crosswalks; Traffic Lanes

7-4-1: AUTHORITY TO INSTALL:

The Chief of Police, as head of the Traffic Division, shall place and maintain traffic-control devices when and as required under the provisions of this Code to make effective its provisions and may place and maintain such additional traffic-control devices as traffic conditions may require to regulate traffic under the provisions of this Title or under State law or to guide and warn traffic. All traffic-control devices now in place in the City are hereby authorized, ratified and confirmed and shall be maintained by the Chief of Police, as head of the Traffic Division.

The Chief of Police shall keep a record of all traffic-control devices maintained by his department.

All traffic-control devices shall comply with standards established by the "Manual of Uniform Traffic Control Devices for Streets and Highways". (Ord. 97, 6-19-1961)

7-4-2: CROSSWALKS; TRAFFIC LANES:

The Chief of Police, as head of the Traffic Division, is hereby authorized to:

A. Designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where due to traffic conditions there is particular danger to pedestrians crossing the street or roadway and at such other places as traffic conditions require.

B. Mark lanes for traffic on street pavements at such places as traffic conditions require consistent with the provisions of this Code. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to be within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement. (Ord. 97, 6-19-1961)

CHAPTER 5

STOPPING, STANDING AND PARKING

SECTION:

7-5-1: Method Of Parking

7-5-2: Painted Curbs; Markings

7-5-3: Posting Signs

7-5-4: Obedience Required

7-5-5: Parking Prohibitions

7-5-6: Enforcement

7-5-7: Prohibited Parking During Snow Events

7-5-8: Fines

7-5-1: METHOD OF PARKING:

A. Two-Way Streets: No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right hand wheels of the vehicle within eighteen inches (18") of the curb or edge of the roadway, except as hereinafter provided in the case of angle parking and vehicles parked on the left hand side of one-

way streets. No person driving any motor vehicle shall drive the same to cross the opposite lane of travel for the purpose of parking on any street, at any time. No person shall upon leaving a parking stall back such vehicle across the centerline with intention of proceeding in an opposite direction.

B. Left Hand Side Of One-Way Streets: No person shall stand or park a vehicle on the left side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left hand wheels of the vehicle within eighteen inches (18") of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

C. Angle Parking: The chief of police, as head of the traffic division, shall determine upon what streets, as traffic conditions require, angle parking shall be permitted and shall mark or sign such streets or portions thereof indicating the method of angle parking. (Ord. 97, 6-19-1961)

7-5-2: PAINTED CURBS; MARKINGS:

Where because of restrictions to visibility and where standing or parked vehicles would constitute a hazard to moving traffic, the chief of police, as head of the traffic division, as traffic conditions require, may cause curbs to be painted with a red or orange color and erect no parking or standing signs prohibiting parking or standing, and it shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or signposted. All curbs in the city now so painted and all signs now in place in the city, prohibiting standing or parking are hereby authorized, ratified and confirmed and shall be maintained by the chief of police, as head of the traffic division. (Ord. 97, 6-19-1961)

7-5-3: POSTING SIGNS:

The chief of police, as head of the traffic division, shall determine upon what streets, or portions of streets, parking shall be provided or limited, as traffic conditions require. Whenever any parking time limit is imposed or parking is prohibited on designated streets or portions of streets, it shall be the duty of the traffic division to erect appropriate signs giving notice thereof, and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense; provided, however, that the provisions of this section shall not apply to section 7-5-5 of this chapter. When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs. All signs now in place in the city prohibiting parking or fixing a parking time limit are hereby authorized, ratified and confirmed and shall be maintained by the chief of police, as head of the traffic division. (Ord. 97, 6-19-1961; Ord. 439, 4-19-1993)

7-5-4: OBEDIENCE REQUIRED:

Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway as indicated by such signs and markings. (Ord. 97, 6-19-1961)

7-5-5: PARKING PROHIBITIONS:

A. General Prohibitions:

1. Parking For Certain Purposes Prohibited: No person shall park a vehicle upon any part of a street or municipal parking lot for the principal purpose of:

- a. Displaying such vehicle for sale.
- b. Washing, greasing or repairing such vehicle except such repairs as are necessitated by an emergency.
- c. Displaying advertising.
- d. Selling merchandise from such vehicle except in a duly established marked place or when so authorized or licensed under the provisions of this code.
- e. Storage for more than forty eight (48) hours. However, this subsection A1e shall not apply to municipal parking lots or areas of municipal parking lots which have been designated by appropriate signs and marking as "long term parking" areas.

For purpose of this section, the word "street" means the entire width between the property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right for purposes of vehicular traffic. The term "municipal parking lot" shall mean the entire portion of all parcels of property owned by the city and improved and designated for vehicular parking.

2. Fire Limits: No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- a. In any public alley within the fire limits of this city.
- b. In any private alley within the fire limits of this city in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.

B. Private Property: It shall be unlawful to stand or park any vehicle, including, but not limited to, automobiles, trucks, motorcycles, bicycles, construction machinery and farm machinery, as follows:

1. Upon private farm and noncommercial real property owned by another without the express or implied permission of the owner, tenant or person legally in control of the real property. However, this section does not prohibit tenants in double and multiple rental residences from expressly or impliedly permitting others to stand or park vehicles in common area parking lots connected with the rental property unless there are plainly posted appropriate signs prohibiting such parking or standing by persons other than tenants. All lettering on said signs shall be a minimum of three inches (3") in height and shall be posted at all entries to the real property or in places visible from all parking spaces.

2. Upon private, commercial real property owned by another without the express or implied permission of the owner, tenant or person legally in control of the real property, and then only if the owner, tenant or person legally in control of the real property has caused to be plainly posted on said property appropriate signs prohibiting such parking or standing of vehicles. All lettering on said

signs shall be a minimum of three inches (3") in height and shall be posted at all entries to the real property or in places visible from all parking spaces.

3. Upon "fire lanes" or within five feet (5') of fire hydrants or fire connections established on private commercial real property and designated as provided in this subsection.

a. Any owner of private commercial real property located in the city may establish and designate "fire lanes" upon said property.

b. "Fire lanes" shall be designated by painting of the surface of the "fire lane" with diagonal yellow stripes and by painting of the following legend on the surface of the "fire lane" or by placing signs adjacent to the "fire lane": "NO PARKING ANYTIME - FIRE LANE". Such legends or signs shall be placed at not less than one hundred foot (100') intervals. Designated "fire lanes" shall not be less than fourteen feet (14') in width.

c. Fire hydrants or fire connections may be placed on private commercial real property and designated with a sign bearing the following legend: "FIRE CONNECTION - NO PARKING WITHIN 5 FEET". No person shall park a motor vehicle within five feet (5') of a fire hydrant or fire connection so established and designated.

C. Nonself-Propelled Vehicles Or Equipment: No person shall park or store a trailer, camper, or other nonself-propelled vehicle or equipment on any street or municipal parking lot in the city.

The prohibition of this section shall not apply if the trailer, camper or other equipment is properly connected to a self-propelled vehicle and is promptly movable.

D. All Night Parking Prohibited: No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, between the hours of two o'clock (2:00) A.M. and six o'clock (6:00) A.M. of any day.

E. Truck Parking:

1. No person shall stop or park any commercially licensed vehicle or combination of vehicles of a length of more than twenty two feet (22'); or an overall width of more than eighty inches (80") on Highway 71, also designated as Grand Avenue and Highway Boulevard, unless such stop is required by traffic conditions, or by directions of police officers or traffic control devices.

2. No person shall park a tractor trailer combined vehicle for a period of more than thirty (30) minutes on any public street in the city at a point closer than one hundred fifty feet (150') to a residence.

F. Blocking Traffic Prohibited: No vehicle shall be stopped or parked upon the traveled portion of a public street in the city, unless required by traffic conditions or by directions or police officers or traffic control devices. However, a commercial vehicle may be parked so as to not block more than one lane of the traveled portion of a street for a time period of not more than thirty (30) minutes, solely for the purpose of loading or unloading the vehicle.

G. Police Authority: Any police officer of the city shall have authority to permit, direct or prohibit the parking of any vehicle upon a city street, alley, or in a public parking lot, as circumstances may require.

H. Designation Of Individual Parking Spaces: The chief of police is authorized and directed to designate and mark off such individual parking spaces as he deems appropriate on streets, highways, and in municipal public parking lots within the city.

The parking of any vehicle shall be accomplished in such a manner so as to place the vehicle entirely within an individually marked parking space, and no vehicle shall be parked in any manner so as to occupy any portion of more than one parking space.

I. Parking Between Curb And Right Of Way Boundary Prohibited: On city streets where curbs have been constructed and parking is permitted, vehicles shall be parked only between the curbs and no person shall park a vehicle in the area outside of the curb, between the curb and the right of way boundary.

The prohibition of this subsection shall not apply:

1. During periods when a "snow emergency" has been declared and is in effect pursuant to section 7-5-7 of this chapter.

2. To that portion of the area outside of the curb between the curb and the right-of-way boundary, which is a driveway or entranceway to the property.

3. To those areas in the City where the curb or sidewalk has been offset and a paved parking area constructed between the normal curb line and the right-of-way boundary.

4. During those days in September of each year, when the Clay County Fair is in operation. (Ord. 97, 6-19-1961; Ord. 97.4, 1967; Ord. 328, 2-3-1986; Ord. 330, 2-3-1986; Ord. 360, 6-20-1988; Ord. 453, 3-21-1994; Ord. 466, 9-5-1995; Ord. 512, 2-15-1999; Ord. 570, 5-20-2002)

7-5-6: ENFORCEMENT:

A. Authority To Impound Vehicles: Members of the Police Department are hereby authorized to remove, or have removed, a vehicle from a street, public alley or Municipal parking lot to the nearest garage or other place of safety, or to a garage designated or maintained by the Police Department, or otherwise maintained by the City, under the following circumstances:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are, by reason of physical injury or otherwise, unable to provide for the vehicle's custody or removal.

2. When any vehicle is left unattended upon a street or Municipal parking lot and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement to traffic.

3. When any vehicle is left parked upon a street or Municipal parking lot for a continuous period of forty eight (48) hours or more, except areas of Municipal parking lots at the Spencer Municipal Airport designated "long term parking".

4. When any vehicle is left parked upon a street, alley or Municipal parking lot in a manner which interferes with any officer or employee of the City in cleaning, marking, repairing or using the street, alley or parking lot, or in removing snow or ice therefrom.

5. In addition to the penalties hereinafter provided, the owner or operator of any vehicle impounded for violation of any of the provisions of this section shall be required to pay the reasonable cost of towing charges and storage before it is released. The towing and storage charges shall be set by the City Council from time to time by resolution.

B. Assumption Regarding Parked Vehicles: In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred, shall be raised by proof that:

1. The particular vehicle described in the information was parked in violation of this Code.

2. The defendant named in the information was the registered owner at the time in question. (Ord. 97, 6-19-1961; Ord. 398, 2-18-1991; Ord. 453, 3-21-1994; Ord. 512, 2-15-1999; Ord. 621, 3-7-2005)

7-5-7: PROHIBITED PARKING DURING SNOW EVENTS:

A. A "snow event" shall be deemed to exist when the National Weather Service predicts a snow accumulation of two (2) or more inches in the City, or if new snow accumulation has reached two inches (2") as measured at the facilities of the KICD Radio Station. The snow event shall continue so long as snow accumulation continues and for an additional forty eight (48) hours after snowfall has ended.

B. When a snow event exists, no person shall park, abandon, or leave unattended any vehicle on any portions of any public streets or alleys connecting to such streets between the hours of twelve o'clock (12:00) midnight and seven o'clock (7:00) A.M.

C. Members of the Police Department are hereby authorized to remove, or have removed, to the City vehicle impoundment area, any vehicle found parked, abandoned or unattended in violation of the provisions of this section.

D. In the event of a conflict between the provisions of this section and any other section or provision of this Code, the provisions of this section shall control.

E. The Mayor is hereby empowered to declare a "parking emergency" should conditions warrant, due to ice accumulation, blowing snow, tree debris, or any other condition that requires streets and alleys to be cleared of parked vehicles. Upon the Mayor's declaration of a "parking emergency", the local media shall be promptly advised of the Mayor's declaration. A declared "parking emergency" shall be in effect four (4) hours after it is declared or at such other time as the Mayor may designate. A declared "parking emergency" shall continue to exist until such time as it is terminated by order of the Mayor. During a "parking emergency" no person shall park, abandon, or leave unattended any vehicle on any portions of public streets or alleys connecting to such streets.

F. When a snow event or parking emergency exists, parking is permitted in all Municipal public parking lots until eight (8) hours after signs or markers are placed by the City at entrances to a parking lot indicating that the lot will be closed for snow removal. Parking shall be prohibited in Municipal lots beginning eight (8) hours after signs or markers are posted at the entrances. This parking prohibition shall continue until snow removal activities have been completed and the signs or markers have been removed. (Ord. 708, 9-20-2010; Ord. 833, 9-17-2018)

7-5-8: FINES:

A. Violations of this chapter shall be considered parking violations under section 321.236 of the Iowa Code. The fine shall be one hundred dollars (\$100.00). The fine includes any towing charges, but does not include storage fees.

B. Violations of this chapter may be charged and fines collected upon a simple notice of a fine. The fine shall be payable to the city and shall be paid at the Spencer police department, 405 1st Avenue West, Spencer, Iowa.

C. The "notice of fine" shall be placed on a conspicuous place on the offending vehicle or presented to the owner or operator of the vehicle, if that person is available.

D. If the "notice of fine" is denied or not paid, violations of this chapter may be prosecuted by complaint or uniform citation pursuant to the provisions of sections 805.7 to 805.13, inclusive of the Iowa Code as any other traffic violation. (Ord. 512, 2-15-1999; Ord. 598, 12-15-2003; Ord. 665, 2-18-2008; Ord. 694, 12-21-2009)

ARTICLE A. PARKING SPACES

(Rep. by Ord. 512, 2-15-1999)

Notes

1. Prior ordinance history: Ord. 251; Ord. 260.

CHAPTER 6

WEIGHT LIMITS

SECTION:

7-6-1: Police Power

7-6-2: Weight Of Vehicle; Width Of Tires

7-6-3: Special Oversize/Excess Weight Permit

7-6-4: Liability For Damages

7-6-5: Penalty For Violation

7-6-1: POLICE POWER:

Any police officer, having reasonable cause to believe that the owner or operator of a vehicle is in violation of the provisions of this chapter, may require the vehicle to be immediately weighed in order to determine the true gross weight of the vehicle. (Ord. 332, 3-3-1986)

7-6-2: WEIGHT OF VEHICLE; WIDTH OF TIRES:

A. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amount specified on such signs at any time upon any of the following streets or parts of streets, except as hereafter provided:

Streets	Maximum Gross Weight
4th Avenue Southwest from its intersection with 13th Street Southwest to its intersection with 25th Street Southwest	20,000 lbs.
West 7th Street from 11th Avenue West to 9th Avenue West	10,000 lbs.
7th Avenue Southwest from Southmoor Drive to 6th Street Southwest	10,000 lbs.

B. It shall be unlawful to use any vehicle, other than a motor vehicle, unless the tires of such vehicle be of the width required for the weight of vehicles and loads combined as follows:

Combined weight of four (4) wheeled vehicle and load:

Over 2,000 and less than 4,000 pounds	2 inch tires
Over 4,000 and less than 6,000 pounds	3 inch tires
Over 6,000 and less than 8,000 pounds	4 inch tires

Any two (2) wheeled vehicle weighing with its load in excess of two thousand (2,000) pounds shall have tires one inch (1") in width for each two thousand (2,000) pounds' weight of vehicle and load. (Ord. 49, 2-7-1953; Ord. 97.2, 5-21-1962; Ord. 332, 3-3-1986; Ord. 716, 4-18-2011; Ord. 820, 7-3-2017)

7-6-3: SPECIAL OVERSIZE/EXCESS WEIGHT PERMIT:

The Public Works Director may, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or a combination of vehicles of a size or weight or load exceeding the maximum specified by State law or by this chapter over those streets named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance. (Ord. 332, 3-3-1986; Ord. 716, 4-18-2011)

7-6-4: LIABILITY FOR DAMAGES:

A. Any person driving any vehicle upon any street within the City shall be liable for all damages which said street may sustain as the result of any illegal operation, driving or moving of such vehicle or as a result of operation, driving or moving of such vehicle in excess of the maximum weight provided in this chapter.

B. Whenever such driver is not the owner of such vehicle but is so operating, driving or moving the same within the expressed or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage. (Ord. 332, 3-3-1986)

7-6-5: PENALTY FOR VIOLATION:

Any person who violates the provisions of this chapter shall, upon conviction or a plea of guilty, be subject to the provisions set forth in section 1-4-1 of this Code. (Ord. 332, 3-3-1986; 1991 Code)

CHAPTER 7

RAILROADS

SECTION:

7-7-1: Speed Restrictions; Exceptions

7-7-2: Signals

7-7-3: Obstructing Crossings

7-7-4: Flying Switches

7-7-5: Crossing Guards

7-7-6: Railway Operations

7-7-1: SPEED RESTRICTIONS; EXCEPTIONS:

It shall be unlawful for any person or the employee of any person to run or operate any train, locomotive engine, railway car or other vehicle on any railway tracks across any street or highway at a greater speed than ten (10) miles per hour; provided, however, the speed limit shall be twenty five (25) miles per hour at all street or highway crossings of the Chicago, Milwaukee, St. Paul Railway Company tracks between the said Railroad Company Milepost 218 and the west City limits of the City of Spencer. (Ord. 128, 12-7-70)

7-7-2: SIGNALS:

It shall be the duty of the conductor and of the engineer having charge of any locomotive, to cause the engine bell to be rung upon the approach of the locomotive to the street crossing and whenever any person or animal is upon the railroad track at such crossing, if necessary to avoid danger, to slacken the speed of such locomotive. (Ord. 43, 12-7-53)

7-7-3: OBSTRUCTING CROSSINGS:

It shall be unlawful for any conductor, engineer or other person, company or corporation to allow any locomotive, car or cars to remain on the track of any railroad in such a manner as to obstruct any street crossing or sidewalk or any part of the public street for a longer period of time than five (5) minutes. (Ord. 43, 12-7-53)

7-7-4: FLYING SWITCHES:

It shall be unlawful for any conductor or engineer or other person to make flying switches over any street, or to move any car or cars over any street without having an engine attached thereto, unless some employee of the railroad company is stationed at such crossing to give warning of the approach of such car or cars. (Ord. 43, 12-7-53)

7-7-5: CROSSING GUARDS:

It shall be unlawful for any conductor, engineer or other person to move any car or cars over any street, when such car or cars are moving ahead of the engine, unless some employee of the railroad company shall be stationed at such crossing to give warning of the approach of such car or cars. (Ord. 43, 12-7-53)

7-7-6: RAILWAY OPERATIONS:

It shall be unlawful to obstruct the operation of any railroad or interfere therewith by placing any stick, stone or obstacle upon the tracks or rails. (Ord. 38, 12-7-53)

CHAPTER 8

BICYCLES

SECTION:

7-8-1: Registration

7-8-2: Transfer

7-8-3: Duplicate Registration

7-8-4: Definitions

7-8-5: Applicability Of Motor Vehicle Laws

7-8-6: Alteration Of Serial Frame Number

7-8-7: Sirens And Whistles Prohibited

7-8-8: Lamps And Reflectors

7-8-9: Stopping

7-8-10: Obedience To Signals

7-8-11: Control Of Bicycle

7-8-12: Place Of Riding

7-8-13: Bicycle Lanes

7-8-14: Operation On Sidewalk

7-8-15: Clinging To Other Vehicles

7-8-16: Parking

7-8-17: Signaling Turns

7-8-18: Motorists Change Lanes To Pass Bicyclists

7-8-19: Opening Doors Into Moving Traffic

7-8-20: Yield To Persons In Crosswalks

7-8-21: Alternate Enforcement Procedures

7-8-1: REGISTRATION:

Every person residing within the city who owns and operates a bicycle on public right of way shall register the bicycle with the Spencer police department. No fee shall be imposed for such registration.

Upon such registration, the registrant shall be issued a registration sticker, which shall be permanently attached to the registered bicycle. (Ord. 68, 12-7-1953; Ord. 370, 4-3-1989; Ord. 536, 8-21-2000)

7-8-2: TRANSFER:

Should a licensed bicycle be sold or the ownership thereof transferred, such license shall be passed to the new owner and shall be reported to the chief of police by the former owner within five (5) days after such sale or transfer. (Ord. 68, 12-7-1953)

7-8-3: DUPLICATE REGISTRATION:

In the event that an owner should lose his registration sticker, or the same should be destroyed or stolen, the owner shall make application to the Spencer police department for a replacement registration sticker, which shall be issued upon payment of a fee established by resolution of the city council. (Ord. 68, 12-7-1953; Ord. 370, 4-3-1989; 1991 Code; Ord. 536, 8-21-2000)

7-8-4: DEFINITIONS.

BICYCLE: Means either of the following:

- (1) A device having up to four wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.
- (2) A device having up to four wheels with fully operable pedals and an electric motor of less than 750 watts.

MULTI-USE TRAIL: A way or place for the use and travel of bicycles, pedestrians, or other authorized conveyances, the use of which is controlled by the city, designated by the multi-use recreational trail maps, as approved by resolution by the city council, and no multi-use trail shall be considered as a street or highway. (Ord. 854, 2-3-2020)

7-8-5: APPLICABILITY OF MOTOR VEHICLE LAWS:

Every person operating a bicycle upon the city streets, highways, park roads, or multi-use trails shall be subject to this chapter and other city traffic ordinances and the state statutes applicable to the drivers of motor vehicles, except as to special regulations in this chapter and except as to those provisions of ordinances and statutes which by their nature can have no application or those provisions for which specific exceptions have been set forth regarding police bicycles. (Ord. 854, 2-3-2020)

7-8-6: ALTERATION OF SERIAL FRAME NUMBER:

It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the manufacturer's serial frame number of any bicycle. (Ord. 854, 2-3-2020)

7-8-7: SIRENS AND WHISTLES PROHIBITED:

A bicycle shall not be equipped with and a person shall not use a bicycle with any siren or whistle. This section shall not apply to bicycles ridden by peace officers in the line of duty. (Ord. 854, 2-3-2020)

7-8-8: LAMPS AND REFLECTORS:

A. Every bicycle ridden at any time from sunset to sunrise and at such other times when conditions such as fog, snow, sleet, or rain provide insufficient lighting to render clearly discernible persons and vehicles on the highway at a distance of three hundred feet ahead shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least three hundred feet to the front.

B. Every bicycle ridden at any time from sunset to sunrise and at such other times when conditions such as fog, snow, sleet, or rain provide insufficient lighting to render clearly discernible persons and vehicles on the highway at a distance of three hundred feet ahead shall be equipped with a lamp on the rear exhibiting a red light visible from a distance of three hundred feet to the rear; except that a red reflector may be used in lieu of a rear light.

C. Equivalent equipment such as headlamps and red light attachments to the head, back, arm, or leg may be used in lieu of a lamp on the front and a red light on the rear of the bicycle.

D. A citation issued for failure to have a front or rear lamp on a bicycle or on a bicycle rider as required shall first provide for a seventy-two-hour period within which the person charged with the violation shall replace or repair the lamp. If the person complies with the directive to replace or repair the headlamp or rear lamp within the allotted time period, the citation shall be expunged. If the person fails to comply within the allotted time period, the citation shall be processed in the same manner as other citations.

E. A peace officer riding a police bicycle is not required to use either front or rear lamps if duty so requires. (Ord. 854, 2-3-2020)

7-8-9: STOPPING:

Every bicycle used upon the city streets, sidewalks, highways, park roads or multi-use trails shall be able to come to a complete stop within a safe distance. (Ord. 854, 2-3-2020)

7-8-10: OBEDIENCE TO SIGNALS:

A. Every person operating a bicycle shall obey the directions of official traffic signals, signs and other control devices applicable to

other vehicles, unless otherwise directed by a police officer, and shall obey direction signs relative to turns permitted, unless such person dismounts from the bicycle, when he or she shall then obey the regulations applicable to pedestrians.

B. If a bicyclist has stopped pursuant to the directions of a traffic control device and has a reasonable belief that the traffic control device or signal is inoperative, the bicyclist may disregard or disobey the instructions of the traffic-control device or signal and proceed through the intersection, provided that:

1. There is no other vehicle approaching or entering the same intersection from a different highway, or from the same highway approaching or entering the intersection from the opposite direction; and
2. The bicyclist cautiously proceeds through the intersection with reasonable care and consideration for all other applicable rules of the road. (Ord. 854, 2-3-2020)

7-8-11: CONTROL OF BICYCLE:

The operator of a bicycle upon a street, sidewalk, highway, park road or multi-use trail shall keep the bicycle under control at all times. (Ord. 854, 2-3-2020)

7-8-12: PLACE OF RIDING:

A. Any person operating a bicycle upon a roadway shall ride on the right half of the roadway or right lane of a roadway with one or more marked lanes for traffic traveling in the same direction except under any of the following situations:

1. When riding alongside or overtaking and passing another bicycle vehicle proceeding in the same direction.
2. When preparing for a left turn at an intersection or into a private road or driveway.
3. When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right half of the roadway.
4. A facility that allows bicycle traffic on the left side of the roadway.
5. When traveling straight through an intersection that has a dedicated right turn only lane.
6. When a street has parallel parked cars that when doors are opened could create a collision with the person riding a bicycle.
7. When an advanced stop line (bike box) allows for bicyclists to filter to the front of a traffic sign or signal and turn.

B. Any person operating a bicycle upon a roadway which carries traffic in one direction only and has two or more marked traffic lanes, may ride on the left traffic lanes.

C. A bicyclist may ride against the flow of traffic in a bike lane which is designed for counterflow bicycle traffic.

D. This section does not apply to the use of a bicycle in a parade or special event authorized by the city. (Ord. 854, 2-3-2020)

7-8-13: BICYCLE LANES:

A. Whenever a bicycle lane has been established on a roadway, any person operating a bicycle upon the roadway moving in the same direction may ride within the bicycle lane.

B. Any person operating a bicycle within a bicycle lane may move out of the lane when overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane.

C. No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal.

D. No person shall drive a motor vehicle in a bicycle lane established on a roadway except as follows:

1. To park where parking is permitted.
2. To enter or leave the roadway.
3. To prepare for a turn within a safe distance from the intersection. (Ord. 854, 2-3-2020)

7-8-14: OPERATION ON SIDEWALK:

Bicycles may be operated upon the public sidewalks in a careful and prudent manner EXCEPT on Grand Avenue between Park Street and Eighth Street and one block east and west from Grand Avenue on Third Street, Fourth Street, Fifth Street, and West Sixth Street, and on the sidewalk portions of the Grand Avenue Bridge over the Little Sioux and Ocheyedan Rivers where signs are erected to prohibiting riding on the sidewalk. Every person lawfully operating a bicycle upon a public sidewalk, shall yield the right-of-way when approaching a pedestrian and shall give an audible signal before overtaking and passing. (Ord. 854, 2-3-2020)

7-8-15: CLINGING TO OTHER VEHICLES:

No person riding upon any bicycle on a street, sidewalk, highway, park road or multi-use trail shall attach the bicycle or himself or herself to any moving motor vehicle by tow rope, hand grip or otherwise. (Ord. 854, 2-3-2020)

7-8-16: PARKING:

No person shall park a bicycle on a sidewalk so that there is not an adequate path for pedestrian traffic. Any bicycle parked on public property in a commercial district shall not be attached to trees. (Ord. 854, 2-3-2020)

7-8-17: SIGNALING TURNS:

All signals are given in the following manner:

- A. Left turn - Left hand and arm extended horizontally to left.

- B. Right turn - Left hand and arm extended upward.
- C. Stop or decrease of speed - Left hand and arm extended downward. (Ord. 854, 2-3-2020)

7-8-18: MOTORISTS CHANGE LANES TO PASS BICYCLISTS:

- A. The driver of a motor vehicle overtaking a person riding a bicycle proceeding in the same direction on a roadway shall pass to the left of the bicycle in an adjacent travel lane or on the opposite side of the roadway and shall not again drive to the right side of the roadway until safely clear of the overtaken bicycle.
- B. The driver of a motor vehicle overtaking a bicycle which is traveling on a paved shoulder or in a lane designated for the travel of bicycles shall give at least three feet of lateral passing distance between the outside of the vehicle and the bicyclist. (Ord. 854, 2-3-2020)

7-8-19: OPENING DOORS INTO MOVING TRAFFIC:

No person shall open any door of a motor vehicle located on a street, highway, or park road without first taking precaution to ensure that this action does not interfere with the movement of traffic or endanger any other person or vehicle. In addition, no person shall leave open any door of a motor vehicle located on a highway for a period of time longer than necessary to load or unload passengers. (Ord. 854, 2-3-2020)

7-8-20: YIELD TO PERSONS IN CROSSWALKS:

The driver of a vehicle shall yield the right-of-way to a bicyclist crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection or multi-use trail crossing. (Ord. 854, 2-3-2020)

7-8-21: ALTERNATE ENFORCEMENT PROCEDURES:

- A. Violations of this chapter may be prosecuted by complaint or uniform citation, or may be charged and fines collected upon a simple notice of the fine. If the simple notice of fine procedure is followed, the fine shall be five dollars (\$5.00) if paid within thirty (30) days of the date of the notice of the fine. The fine shall increase to the amount of ten dollars (\$10.00) if not paid within thirty (30) days of the date of notice of the fine. The fine shall be payable to the city and shall be paid at the Spencer Police Department, 405 1st Avenue West, Spencer, Iowa 51301.
- B. If the "notice of fine" is denied or not paid, violations of this chapter may be prosecuted by complaint or uniform citation pursuant to the provisions of sections 805.7 through 805.13, inclusive, of the Iowa Code as any other traffic violation. (Ord. 536, 8-21-2000; amd. Ord. 854, 2-3-2020)

CHAPTER 9

MINI-BIKES, MOTOR SCOOTERS AND GO-CARTS

SECTION:

7-9-1: Short Title

7-9-2: Definitions

7-9-3: Prohibitions

7-9-4: Impoundment

7-9-5: Penalties

7-9-1: SHORT TITLE:

This chapter shall be entitled *MINIBIKES, MOTOR SCOOTERS AND GO- CARTS*. (Ord. 193, 7-19-1976)

7-9-2: DEFINITIONS:

For use in this chapter, the following terms are defined:

MOTOR VEHICLE: Shall be defined as in section 321.1(2) Code of Iowa.

UNLICENSED OPERATOR: Any person in control of a motor vehicle who does not possess a current valid operator's or chauffeur's license issued by the Iowa Department of Transportation.

UNREGISTERED MOTOR VEHICLE: A motor vehicle which has not been registered under the motor vehicle registration provisions of the Iowa Code (sections 321.17 through 321.44, inclusive).

VEHICLE: Shall be defined as in section 321.1(1) of the Code of Iowa. (Ord. 193, 7-19-1976)

7-9-3: PROHIBITIONS:

It shall be unlawful for any unlicensed operator to operate any unregistered motor vehicle under the following conditions or in the following places:

- A. At a rate of speed greater than reasonable or proper under all existing circumstances.
- B. On public school grounds, park property, playgrounds, recreational areas or golf courses, without the express permission of the proper public authority.
- C. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

- D. In a careless, reckless, or negligent manner, so as to endanger the person or property of another, or to cause injury or damage thereto.
- E. On or across any street, highway, alley, sidewalk or any other public thoroughfare within the corporate limits of the city.
- F. Upon private property without the express permission of the owner. (Ord. 193, 7-19-1976)

7-9-4: IMPOUNDMENT:

Any unregistered motor vehicle operated in violation of the provisions of this chapter may be impounded by the chief of police for a period of twenty four (24) hours. (Ord. 193, 7-19-1976)

7-9-5: PENALTIES:

Any person violating any of the provisions of this chapter shall, upon conviction, be subject to the provisions as set forth in section 1-4-1 of this code. (Ord. 193, 7-19-1976; 1991 Code)

CHAPTER 10

GOLF CARTS

SECTION:

7-10-1: Purpose

7-10-2: Definition

7-10-3: Drivers

7-10-4: Hours Of Operation

7-10-5: Safety

7-10-6: Designated Streets

7-10-7: Rules Of Operation

7-10-8: Penalty

7-10-1: PURPOSE:

In order to facilitate and allow the safe operation of golf carts upon certain streets within the city, it is necessary to enact rules and regulations for the operation thereof. (Ord. 301, 6-18-1984)

7-10-2: DEFINITION:

For purposes of this chapter, the phrase "golf cart" shall mean any vehicle with three (3) or more wheels, powered either by electricity or an internal combustion engine, which is used and designed primarily for the transportation of golfers and golf clubs upon golf courses. (Ord. 301, 6-18-1984)

7-10-3: DRIVERS:

Any person operating a golf cart upon designated city streets shall be at least sixteen (16) years old and possess a valid motor vehicle operator's license issued by the Iowa Department of Transportation. (Ord. 301, 6-18-1984)

7-10-4: HOURS OF OPERATION:

Golf carts may be operated upon designated city streets only from sunrise to sunset, regardless of whether the golf cart is equipped with lights. (Ord. 301, 6-18-1984)

7-10-5: SAFETY:

Any golf cart operated upon designated city streets shall be equipped with a slow-moving vehicle sign on the back thereof as well as a bicycle safety flag, and all carts shall have adequate brakes.

A golf cart operated upon a designated city street only for the purpose of crossing the street at or near a right angle and not otherwise operated upon a city street shall not be required to be equipped with a slow-moving vehicle sign and a bicycle safety flag, as otherwise herein required. (Ord. 301, 6-18-1984)

7-10-6: DESIGNATED STREETS:

Golf carts may be operated on all city streets, except Iowa Highways 71 and 18. Golf carts may cross Highways 71 and 18 after making a complete stop, and at a place where no obstruction prevents a quick and safe crossing. (Ord 856, 5-18-2020)

7-10-7: RULES OF OPERATION:

Drivers of golf carts upon designated city streets shall be subject to all applicable provisions of chapter 321 of the code of Iowa, as subsequently amended, and any violation of the applicable provisions of said chapter shall also constitute a violation of this chapter. In addition, drivers of golf carts operated pursuant to this chapter shall be subject to the following additional rules:

- A. Except when executing a left turn, golf carts shall be driven as close as practicable to the right hand edge of any street.
- B. Golf carts shall yield the right of way to other motor vehicles at all uncontrolled intersections regardless of the dictates of section 321.319 of the code of Iowa.
- C. Golf carts shall not be parked upon streets.

D. When necessary to prevent congestion of traffic, golf carts shall be pulled to the right hand edge of streets and be stopped to allow other motor vehicles traveling in the same direction to pass.

E. When two (2) or more golf carts are being operated in the same direction and general vicinity, they shall proceed in single file. (Ord. 301, 6-18-1984)

7-10-8: PENALTY:

Anyone violating any of the provisions of this chapter shall, upon conviction, be subject to the provisions as set forth in section 1-4-1 of this code. (Ord. 301, 6-18-1984; 1991 Code)

CHAPTER 11

SNOWMOBILES

SECTION:

7-11-1: Definition

7-11-2: Regulations

7-11-3: Operation

7-11-4: Parkings, Sidewalks And Private Property

7-11-5: Towing

7-11-6: Equipment Required

7-11-7: Headlight; Taillight

7-11-8: Traffic Regulations

7-11-9: Impoundment

7-11-1: DEFINITION:

"Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled type runners or skis; endless belt type tread with a width of forty eight inches (48") or less; or any combination of runners, skis, or tread and is designed for travel on snow or ice. The term "snowmobile" does not include an all-terrain vehicle. (Ord. 799, 3-21-2016)

7-11-2: REGULATIONS:

It shall be unlawful for any person to operate a snowmobile under the following circumstances:

- A. At a rate of speed greater than reasonable or proper under all existing circumstances.
- B. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
- C. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
- D. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
- E. Without having such snowmobile registered as required by sections 321G.3 and 321G.4 of the Iowa Code or similarly registered under the laws of another state and without having obtained and affixed a user permit as required by sections 321G.4(A) or 321G.4(B) of the Iowa Code. (Ord. 129, 12-21-1970; Ord. 799, 3-21-2016)

7-11-3: OPERATION:

- A. Snowmobiles may be operated on the public streets as provided herein:
 - 1. By a person sixteen (16) years of age or older and holding a valid Iowa driver's license.
 - 2. In a single file manner in the proper lane of traffic but as close to the curb as possible under existing circumstances.
- B. Snowmobiles may not be operated upon the following public streets within the city limits except when the same have not been plowed and are impassable during the snow season:
 - 1. Grand Avenue.
 - 2. Fourth Avenue East.
 - 3. Fourth Avenue West.
 - 4. Fourth Street.
 - 5. Streets adjacent to hospital and nursing homes.
 - 6. Streets having a ditch parallel to either side thereof.
- C. A snowmobile may make a direct crossing of any public street named in subsection B of this section, provided:

1. The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing.
2. The snowmobile is brought to a complete stop before crossing the street.
3. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard.
4. In crossing a divided street, the crossing is made only at an intersection of such street with another public street. (Ord. 129, 12-21-1970; Ord. 799, 3-21-2016)

7-11-4: PARKINGS, SIDEWALKS AND PRIVATE PROPERTY:

Snowmobiles shall not be operated, upon:

A. The public sidewalks within the city limits, nor shall they be operated upon that portion of the public streets located between the curb line and the sidewalk line and commonly referred to as parking, except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

B. Private property without the express permission of the owner of that property. (Ord. 129, 12-21-1970; Ord. 131, 2-15-1971)

7-11-5: TOWING:

It shall be unlawful to tow any sled, or trailing object, upon the city streets, unless coupled to said snowmobile by a rigid tow bar, and no sled or trailing device shall be towed by a snowmobile between the hours of sunset and sunrise. (Ord. 129, 12-21-1970; Ord. 131, 2-15-1971)

7-11-6: EQUIPMENT REQUIRED:

All snowmobiles operated within the city limits shall have the following equipment:

A. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cutout, bypass or similar device on said vehicle.

B. Adequate brakes in good working condition and at least one headlight and one taillight.

C. A safety or so called "dead man" throttle in operating condition; a "safety or dead man throttle" is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from driving track. (Ord. 129, 12-21-1970)

7-11-7: HEADLIGHT; TAILLIGHT:

The headlight and taillight shall be lighted at all times when a snowmobile is being operated on a public street within the city limits. (Ord. 129, 12-21-1970)

7-11-8: TRAFFIC REGULATIONS:

Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto and shall obey the orders and directions of any police officer of the city authorized to direct or regulate traffic. (Ord. 129, 12-21-1970)

7-11-9: IMPOUNDMENT:

A snowmobile being operated in violation of subsection 7-11-3A of this chapter may be impounded by the chief of police for a period to be determined by said chief but not to exceed seven (7) days. (Ord. 129, 12-21-1970)

CHAPTER 12

CONTROLLED ACCESS FACILITIES

SECTION:

7-12-1: Police Power

7-12-2: Definition

7-12-3: Unlawful Use

7-12-4: Establishment

7-12-5: Parking

7-12-6: Speed Limits

7-12-1: POLICE POWER:

This chapter shall be deemed an exercise of the police power of the city under chapter 148, acts of the 56th general assembly of the state of Iowa, for the preservation of the public peace, health, safety and the promotion of the general welfare. (Ord. 100, 10-16-1961)

7-12-2: DEFINITION:

For the purpose of this chapter, a "controlled access facility" shall mean a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have only a controlled right of easement of access, light, air or view by reason of the fact their property abuts upon such controlled access facility or for any other reason. (Ord. 100, 10-16-1961)

7-12-3: UNLAWFUL USE:

It shall be unlawful for any person to use controlled access facilities for any of the following:

- A. Drive a vehicle over, upon or across any curb, central dividing section or other separation or dividing line on such controlled access facilities.
- B. Make a left turn or semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
- C. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section or line.
- D. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property. (Ord. 100, 10-16-1961; Ord. 111, 6-7-1965)

7-12-4: ESTABLISHMENT:

A. There are hereby fixed and established controlled access facilities on the primary road system extension improvement, project FN-935, Primary Road No. 71, within the City described as follows:

From Sta. 1799 + 00 to Sta. 1823 + 52.6 Sta. 0 + 00 and from Sta. 0 + 00 to Sta. 7 + 72, net length is 3224.6 feet or 0.611 miles, regulating access to and from Sta. 1799 + 00 to Sta. 1823 + 52.6 Sta. 0 + 00 and from Sta. 0 + 00 to Sta. 7 + 72 abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-935 on file in the office of the Clerk.

B. There are hereby fixed and established controlled-access facilities on the Primary Road System extension improvement, Project No. F-729 Primary Road No. 18 within the City, described as follows:

Beginning on the north side of said primary road from Sta. 17 + 75.0 to north side at Sta. 35 + 40.7 and on both sides of said primary road from Sta. 35 + 40.7 to Sta. 43 + 90.7 (ECL) regulating access to and from all abutting properties along said primary road all in accordance with the plans for such improvement identified as Project No. F-729 on file in the office of the Clerk. (Ord. 100, 10-16-61; Ord. 111, 6-7-65)

7-12-5: PARKING:

A. Parking of any nature is prohibited on the Primary Road No. 18 of the City described as follows:

Beginning on the north side of said primary road from Sta. 17 + 75.0 to north side at Sta. 35 + 40.7 and on both sides of said primary road from Sta. 35 + 40.7 to Sta. 43 + 90.7 (ECL). Parking of any nature is also prohibited on all minor street approaches to said portion of said primary road for a distance of thirty five feet (35') in advance of each stop sign and on the exit sides of said minor streets for a distance of thirty five feet (35').

B. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

1. On Primary Road No. U.S. 71 (11th Street Southwest) from Sta. 1799 + 00 to Sta. 1823 + 52.6 Sta. 0 + 00 and from Sta. 0 + 00 to Sta. 7 + 72 Project No. FN-935.
2. On 4th Avenue Southwest for a distance thirty five feet (35') north of the stop sign at the intersection with Primary Road No. U.S. 71 (11th Street Southwest).
3. For a distance of thirty five feet (35') from the intersection tangent point (normally the outside edge of the sidewalk) with South Grand Avenue, on the following streets:

On the north side of Fourth

Street Southwest.

Fourth Street Southeast.

Fifth Street Southwest.

Fifth Street Southeast.

Seventh Street Southwest.

Seventh Street Southeast.

Eighth Street Southwest.

Eighth Street Southeast.

Tenth Street Southwest.

Eleventh Street Southwest Plaza.

4. For a distance of fifteen feet (15') from the intersection tangent point (normally the outside edge of the sidewalk) with South Grand Avenue on the south side of Fourth Street Southwest. (Ord. 100, 10-16-61; Ord. 111, 6-7-65; Ord. 417, 6-15-92)

7-12-6: SPEED LIMITS:

The Iowa Highway Commission having determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions of streets is less than is necessary for safe operation of vehicles thereon, it is

hereby declared that the maximum speed limit upon those streets or portions thereof described shall be as stated below:

A. On Primary Road No. U.S. 71 (11th Street Southwest) from Sta. 1799 + 00 to Sta. 1823 + 52.6 Sta. 0 + 00 and from Sta. 0 + 00 Sta. 7 + 72 Project No. FN-935, fifty five (55) miles per hour.

B. On the Primary Road No. U.S. 18 (11th Street Southeast) from Sta. 7 + 72 to Sta. 43 + 90.7 (Project No. FA-259), fifty five (55) miles per hour. (Ord. 100, 10-16-61)

CHAPTER 13

DRIVE-IN FACILITY

SECTION:

7-13-1: Purpose

7-13-2: Definition

7-13-3: Stopping; Standing; Parking Prohibited

7-13-4: Deliveries

7-13-1: PURPOSE:

The purpose of this Chapter is to regulate traffic upon and the use of the public streets and alleys within the City. (Ord. 114, 7-19-65)

7-13-2: DEFINITION:

For use within this Chapter, the words "drive-in facility" shall mean any window, floor, opening, building, cage, stand, device or structure used in connection with any business transaction between the operator of same and an occupant or occupants of a motor vehicle. (Ord. 114, 7-19-65)

7-13-3: STOPPING; STANDING; PARKING PROHIBITED:

No person shall stop, stand or park a motor vehicle at a drive-in facility unless such stopping, standing or parking shall take place wholly upon private property and not upon the area occupied by any public street or alley. (Ord. 114, 7-19-65)

7-13-4: DELIVERIES:

Nothing in this Chapter shall be construed to prohibit the delivery of merchandise, supplies and other items for resale or use in the ordinary course of business. (Ord. 114, 7-19-65)

CHAPTER 14

ALL-TERRAIN VEHICLES

SECTION:

7-14-1: Definitions And Regulations

7-14-2: Special Operation On Public Property

7-14-3: ATVs And Snow Removal Operations (rep. by Ord. 855, 5-18-2020)

7-14-4: Limited Operation On City Streets

7-14-5: Other Prohibitions

7-14-6: Crossing Primary Highways 18 And 71(rep. by Ord. 855, 5-18-2020)

7-14-7: ATV Permits (rep. by Ord. 855, 5-18-2020)

7-14-1: DEFINITIONS AND REGULATIONS:

The provisions of chapter 321I of the code of Iowa govern and control the registration, operation and use of all-terrain vehicles (as defined in section 321I.1(1)) and off road utility vehicles (as defined in section 321I.1(18)) in the state of Iowa and the city of Spencer. For purposes of this chapter, the term "ATV" shall include all-terrain vehicles and off road utility vehicles. (Ord. 795, 1-18-2016, eff. 4-1-2016)

7-14-2: SPECIAL OPERATION ON PUBLIC PROPERTY:

All-terrain vehicles shall not be operated on any public property, streets, highways, sidewalks, trails or bridges within the corporate limits of the city of Spencer, except under the following circumstances and as permitted under Title 7, Chapter 14, Section 4(A):

A. The operation is incidental to the vehicle's use for the purpose of surveying by a licensed engineer or land surveyor¹.

B. The all-terrain vehicle is operated by an employee or agent of a public agency as defined in section 34.1 of the Iowa Code for the purpose of providing emergency services or rescue² including all-terrain vehicles operated by or with the approval of the Spencer police department or fire department or Clay County sheriff's office.

C. An all-terrain vehicle that is owned by the owner of land adjacent to a highway may be operated by the owner of the all- terrain

vehicle, or by a member of the owner's family, on the portion of the highway right of way that is between the shoulder of the roadway, or at least five feet (5') from the edge of the roadway, and the owner's property line 3 .

D. An employee or volunteer of the Spencer police department or fire department or Clay County sheriff's office may operated all-terrain vehicles on the property of the political subdivision and on public sidewalks and trails as well as on streets and highways. Under this provision, all-terrain vehicles may be operated on sidewalks, trails and public property for maintenance and snow removal activities, public safety, emergency response and rescue.

E. Property owners or their agents may operate all-terrain vehicles on sidewalks adjacent to the property owner's property for the purpose of removing snow and ice. When being used for the removal of snow and ice from a sidewalk, operation on city streets shall be limited to such incidental operation as is reasonably necessary in the snow removal operation. Individuals who operate all-terrain vehicles on sidewalks for snow removal shall possess a valid Iowa driver's license. (Ord. 619, 3-7-2005; Ord. 681, 1-19-2009; Ord. 748, 5-20-2013; Ord. 795, 1-18-2016, eff. 4-1-2016)

Notes

1. IC 321.234A(1)(b).
2. IC 321.234A(1)(d).
3. IC 321.234A(3).

7-14-3: ATVs AND SNOW REMOVAL OPERATIONS:

(rep. by Ord. 855, 5-18-2020)

7-14-4: LIMITED OPERATION ON CITY STREETS:

ATVs properly registered with the state of Iowa may be operated on streets or alleys in the city of Spencer, except Iowa primary Highways 71 and 18, but only in conformance with the following restrictions:

- A. ATVs may be operated on all city streets, except primary Iowa Highways 18 and 71. ATVs may cross primary highways as permitted under Section 321I.10(5) of the Code of Iowa.
- B. Operators of ATVs must comply with all applicable state statutes and regulations and all city ordinances.
- C. Operators of ATVs on city streets must be at least sixteen (16) years of age and hold a valid Iowa driver's license. Operators that are sixteen (16) or seventeen (17) years of age shall also have in their possession a valid ATV education certificate issued by the department of natural resources.
- D. An ATV shall not be operated on a city street unless the operator has proof of insurance in compliance with the laws of the state of Iowa, including, but not limited to, Iowa Code sections 321.20B and 321A.21.
- E. ATVs operated on city streets shall be equipped with the original manufacturer's muffler and exhaust system or equivalent and shall not exceed the manufacturer's original emission specifications. Every such vehicle shall be equipped with lights and safety equipment required of motor vehicles under Iowa law.
- F. Whenever an ATV is involved in an accident resulting in injury or death to any person or property damage of five hundred dollars (\$500.00) or more, either the operator or someone for the operator shall immediately notify a law enforcement officer and shall file an accident report, within forty eight (48) hours, in accordance with state law.
- G. ATVs used in snow removal operations on city streets shall be equipped with a functioning yellow or amber flashing light visible from all points of the compass at all times.
- H. ATVs operated at any time from sunset to sunrise shall be equipped with at least two (2) headlamps in accordance with Section 321.385 of the Iowa Code; at least one (1) red rear light pursuant to Section 321.387 of the Iowa Code; and a signal lamp to give a signal of an intention to stop pursuant to Section 321.404 of the Code of Iowa. (Ord. 795, 1-18-2016, eff. 4-1-2016; amd. Ord. 855, 5-18-2020)

7-14-5: OTHER PROHIBITIONS:

ATVs shall not be operated:

- A. In a careless, reckless or negligent manner so as to endanger persons or property, or to cause injury or damage thereto.
- B. While under the influence of an alcoholic beverage or controlled substance.
- C. In any park, playground or on any trail unless designated for the operation of ATVs.
- D. With more persons on the vehicle than it was designed to carry.
- E. Upon any operating railroad right of way.
- F. At a speed greater than the posted limit.
- G. ATVs shall not be operated on the Grand Avenue Bridge. (Ord. 795, 1-18-2016, eff. 4-1-2016; amd. Ord. 855, 5-18-2020)

7-14-6: CROSSING PRIMARY HIGHWAYS 18 AND 71:

(rep. by Ord. 855, 5-18-2020)

TITLE 8

BUILDING REGULATIONS

CHAPTER 1

BUILDING CODE

SECTION:

8-1-1: Permits; Applications

8-1-2: Permit Limitation

8-1-3: Suspension; Revocation Of Permit

8-1-4: Construction Permits

8-1-5: Appeal

8-1-6: Injunction

8-1-7: Construction Site Erosion Control

8-1-1: PERMITS; APPLICATIONS:

A. No person shall proceed to erect, construct, enlarge, alter, remodel, convert, remove, move or demolish any building or structure in the city or cause the same to be done, when the cost of such activity shall exceed five hundred dollars (\$500.00), without first making application for and receiving a permit on a form furnished by the building and zoning officer and obtained at least five (5) days prior to such action. The failure to obtain a permit as required under this section shall be a violation of this code. In addition to any other penalties which may be imposed, the permit fee established for the action under section 8-1-4 of this chapter shall be doubled in the case of any permit which is applied for less than five (5) days before the commencement of the activity for which the permit is required.

B. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every applicant shall:

1. Location And Size: Stake out the exact location and size of the building or structure on the lot or tract of land showing the front and side yard setbacks from property lines and the permanent corner stakes of the tract. This will be checked by the building and zoning officer before the applicant is issued a building permit.

2. Description: Describe the land on which the proposed work is to be done by lot, block, name of subdivision and legal description. A sketch or plat of the tract shall also be provided. The person will be furnished a number for said building or structure and also name of street or avenue.

3. Use: Indicate the use of all parts of the building or structure.

4. Plans: One set of plans and specifications shall accompany each application for building or structure. These plans and specifications shall be drawn to scale upon substantial paper or cloth and of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this code. The first sheet of each set of plans shall give the building or structure number and address of the proposed work and also name and address of the owner and also who prepared the plans. These plans shall include a plot plan showing the exact location of the proposed building or structure and every structure on the property. The building and zoning officer may require plans and specifications to be prepared and designed by an engineer or architect licensed by the state of Iowa.

5. Final Surface Grade: The final surface grade shall be measured from the lot line at the established sidewalk grade or, if no sidewalk grade has been established, from a grade determined by the department of public works. The grade shall be three-eighths of an inch ($\frac{3}{8}$ ") per foot for the first twenty five feet (25') and one-fourth of an inch ($\frac{1}{4}$ ") per foot for any additional setback in excess of twenty five feet (25').

The final surface grade for a particular parcel may be established at a grade different than that prescribed herein, upon the approval of the superintendent of public works.

The superintendent of public works may also require a site drainage plan certified by a registered engineer or architect.

6. Application Signatures: The application shall be signed by the permittee or authorized agent.

7. No Changes After Approval: Issuance of a permit and approval of plans and specifications shall not permit the permittee to make any changes in the plans or to place buildings or structures in different locations or to make other changes without the authority of the building and zoning officer. The permit shall be declared invalid, and the party or parties shall be in violation of the provisions of this code if incorrect information is given.

8. Numbers On Dwellings **1** : The owner shall place the proper number on the front or main entrance of every building, and the color and size of the numbers shall be large enough to be visible from the street. The color shall be in contrast to the background (black on white). (Ord. 13; Ord. 200, 11-1-1976; Ord. 349, 7-6-1987; Ord. 392, 10-1-1990; 1991 Code)

Notes

1 1. See also title 5, chapter 3 of this code.

8-1-2: PERMIT LIMITATION:

A. Every permit issued by the building and zoning officer under the provisions of this code shall expire and become null and void if the building or work authorized by such permit is not commenced within sixty (60) days from the date of issuance of the permit.

B. All building permits issued by the building and zoning officer shall expire according to the following schedule:

<u>Type Of Work</u>	<u>Time Of Expiration</u>
New one- or two-family dwelling, garage	1 year and 60 days from date of permit
New multiple-family dwellings	18 months and 60 days from date of permit
All residential remodeling	6 months and 60 days from date of permit
New commercial or industrial, institutional	18 months and 60 days from date of permit
Commercial or industrial remodeling	1 year and 60 days from date of permit
Fences, walls, hedges	6 months from date of permit
Moving permit	6 months from date of permit
All other construction	6 months from date of permit

C. If an improvement requiring a building permit under the provisions of this chapter is constructed pursuant to a written contract which specifies a completion date, the permit shall expire on the specified completion date or according to the schedule set out in subsection B of this section, whichever period is longer.

D. The expiration dates established in this section may be extended by the building and zoning officer, in regard to residential interior remodeling, upon request of the applicant, when the public interest would not be adversely affected by such extension.

E. If a permit expires under the provisions of this section, a permit may be reissued upon request. The fee for reissuance shall be twice the original permit fee for the first reissuance and shall be increased by the amount of the original permit fee for each subsequent reissuance. (Ord. 207, 8-15-1977; 1991 Code)

8-1-3: SUSPENSION; REVOCATION OF PERMIT:

The building and zoning officer may, in writing, suspend or revoke a permit issued under provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any provisions of this Code. (Ord. 13; Ord. 200, 11-1-1976; 1991 Code)

8-1-4: CONSTRUCTION PERMITS:

A. Construction Permit Without On Site Inspection: The minimum fee for a construction permit that does not require on site inspection shall be thirty five dollars (\$35.00).

B. Construction Permit With On Site Inspection: The minimum fee for a construction permit that requires on site inspection shall be seventy dollars (\$70.00).

C. Additional Fees: The minimum fees set out above cover construction with an estimated cost not to exceed ten thousand dollars (\$10,000.00). For construction projects that exceed an estimated cost of ten thousand dollars (\$10,000.00), an additional fee of two dollars (\$2.00) per one thousand dollars (\$1,000.00) of estimated costs in excess of ten thousand dollars (\$10,000.00) shall be imposed. For example, the total permit fee for construction estimated to cost one hundred thousand dollars (\$100,000.00) and which does require a site visit will be two hundred fifty dollars (\$250.00); however, the maximum construction permit fee shall be three thousand dollars (\$3,000.00).

D. Fence Or Hedge Permits: The fee for fence or hedge permits shall be thirty dollars (\$30.00).

E. Demolition Permit: The fee for a demolition permit shall be twenty five dollars (\$25.00).

Building permit fees shall be paid in cash or equivalent for each permit to the building and zoning officer and receipt given. The building and zoning officer shall determine the appropriate permit fee under the provisions of this Code. However, no permit fee shall be required for any building or structure owned by the United States or any agency or instrumentality thereof or by the State or by any agency, instrumentality or government or political subdivision thereof, specifically including Clay County and buildings or structures constructed on the Clay County Fairgrounds. (Ord. 13; Ord. 200, 11-1-1976; Ord. 349, 7-6-1987; Ord. 392, 10-1-1990; 1991 Code; Ord. 597, 12-15-2003; Ord. 817, 6-5-2017, eff. 7-1-2017)

8-1-5: APPEAL:

Upon the issuance or refusal to issue a permit under this chapter, an aggrieved person may appeal the action of the building and zoning officer to the Board of Adjustment pursuant to the provisions of title 2, chapter 2 of this Code. (Ord. 13; Ord. 355, 12-21-1987; 1991 Code)

8-1-6: INJUNCTION:

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved in, or maintained, or any building, structure or land is used in violation of this Code or other regulations made under authority conferred hereby, or by any provision of law, an action may be instituted and maintained by the City either through its building and zoning officer or Board of Adjustment acting, appointed or qualified under this chapter, or by or through the Council to enjoin or restrain any such unlawful erection, construction, reconstruction, alteration, repair, conversion, moving in, maintenance or use, and the City may through said officers abate such violation and prevent any illegal use or the conducting of any business or use in or about such premises and to remove any structure erected or used in violation of the provisions of this Code. (Ord. 13; 1991 Code)

8-1-7: CONSTRUCTION SITE EROSION CONTROL:

A. Definitions: The definitions set out in subsection 9-13-4P1 of this Code are hereby incorporated in this subsection by reference.

B. Erosion And Silt Control Plan: No person shall engage in any land disturbing activity, without first providing and then implementing and following an erosion and silt control plan compliant with this section. This plan is required before a construction permit shall be issued. The erosion and silt control plan shall comply with the following directives:

1. Nature Of Work: The plan must describe the nature and extent of the work.

2. Silt Screen Fence: A silt screen fence shall be installed below the direction of runoff in a manner so as to be most effective in preventing siltation of soil onto downstream adjacent properties, streets or into a public lake or storm sewer.

The silt screen fence shall be installed to run a sufficient length of the land disturbing activity and be blocked on each end to prevent runoff around the ends of the fence in order to protect the adjacent properties, streets, public waters or storm sewer from siltation from the entire land disturbing activity area. Silt fence should normally be spaced so that not more than one-fourth ($\frac{1}{4}$) acre of land drains into one hundred feet (100') of silt fence run. The bottom edge of a silt fence should equal the top elevation of the next fence downstream, especially when the slope is steep or the flows are concentrated. The spacing of silt fence on a slope should never be more than one hundred feet (100') to keep drainage areas to one-fourth ($\frac{1}{4}$) acre per one hundred foot (100') of run.

The silt screen shall have a minimum width of twenty four inches (24") and be installed in such a manner so that the bottom of the screen is tucked into the surface of the lot a minimum of six inches (6") by digging a narrow slit and simultaneously tucking the fabric into the ground and compacting the silt, thus reducing the chance of piping under the fence.

The silt screen fence support posts shall be spaced along the entire length of the fence with a maximum distance of eight feet (8') between the posts. Said posts shall extend above the silt screen and be placed into the ground at a depth consistent with their design and to provide adequate support of the silt screen.

Silt screening shall also be constructed around any storm sewer or drain intakes that could receive dirt or silt from the land disturbing activity.

3. Alternative Methods Of Erosion Control: An alternative solution to erosion control and siltation management may be proposed to the zoning officer such as the use of compost blankets. Approved erosion control methods as defined in the Iowa DNR erosion control manuals (including "Construction Site Erosion Control Manual" and "How To Control Streambank Erosion") or the "Iowa Stormwater Management Manual" may be used if erosion is kept to acceptable levels and sediment is contained on site. In addition, section 402 of the U.S. Clean Water Act, which contains the national pollutant discharge elimination system (NPDES) regulations, should be considered.

4. Duration: The silt screen fence or alternative method of erosion control shall be installed before any land disturbing activity begins, and shall remain in place and be maintained until all land disturbing activity is completed and sufficient landscaping or vegetation stabilization exists to prevent runoff. National pollutant discharge elimination system (NPDES) considers the site stabilized when seventy percent (70%) of the soil surface is vegetated.

Before the silt screen fence or alternate method of erosion control is permanently removed, all collected silt at the base of the fencing must be removed and distributed on the site or disposed of at a site that poses no continued threat of siltation.

5. NPDES Permit Required: With a development of one (1) acre or more, the City shall be provided a copy of the NPDES permit before approval of a plat can be made.

6. Construction Of Vehicle Exit: Removal of soil, silt and debris from construction sites shall also be limited by the construction and maintenance during the duration of the project of a rock or gravel vehicle exit to the site which shall be of sufficient length and area to significantly limit the amount of soil, silt and debris carried from the site on the tires of vehicles exiting the site.

C. Violation: Violations of this section constitute a simple misdemeanor. Each day such violation continues shall be deemed a separate offense. (Ord. 733, 11-21-2011)

ARTICLE A. UNSAFE; SUBSTANDARD BUILDINGS

SECTION:

8-1A-1: Unsafe Buildings

8-1A-2: Notice To Owner

8-1A-3: Signs Posted

8-1A-4: Right To Demolish

8-1A-5: Substandard Buildings

8-1A-6: Inspection

8-1A-7: Historic Building Restoration

8-1A-1: UNSAFE BUILDINGS:

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this code or any other effective ordinance, are, for the purposes of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter. (Ord. 13)

8-1A-2: NOTICE TO OWNER:

The building and zoning officer may examine any building or structure or portion thereof reported as dangerous or damaged, and if such is found to be an unsafe building as defined in this chapter, the building and zoning officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty eight (48) hours, to commence either the required repairs, or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from the date of notice, unless otherwise stipulated by the building and zoning officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the building and zoning officer and certificate of occupancy issued.

Notice shall be given, in writing, by certified mail to the property owner as shown by the records of the county auditor, and a copy of the notice shall be posted at the subject building. (Ord. 13; 1991 Code)

8-1A-3: SIGNS POSTED:

The building and zoning officer shall cause to be posted at each entrance to such building a notice to read:

DO NOT ENTER, UNSAFE TO OCCUPY

Building Department, City of Spencer

Such notice shall remain posted until the required repairs, demolition or removal are completed. Such notice shall not be removed without written permission of the building and zoning officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building. (Ord. 13; 1991 Code)

8-1A-4: RIGHT TO DEMOLISH:

In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the council may order the owner of the building prosecuted as a violator of the provisions of this code and may order the building and zoning officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council, who shall cause the same to be paid and shall assess the costs against the property for collection in the same manner as a property tax. (Ord. 13; 1991 Code)

8-1A-5: SUBSTANDARD BUILDINGS:

Any building or portion thereof including any dwelling unit, guestrooms or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby declared to be a substandard building:

A. Inadequate Sanitation:

1. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit.
2. Lack of, or improper water closets, lavatories, and bathtub or showers per number of guests in a hotel or tenants in multiple dwellings.
3. Lack of, or improper kitchen sink.
4. Lack of hot and cold running water to plumbing fixtures in a hotel.
5. Lack of hot or cold running water to plumbing fixtures in a dwelling unit or apartments.
6. Lack of adequate heating facilities in multiple dwellings or rooming homes.
7. Lack of, or improper operation of required ventilating equipment.
8. Lack of minimum amounts of natural light and ventilation required by this code.
9. Room and space dimensions less than required by the code of the state of Iowa.
10. Lack of required electrical lighting in halls, stairways, etc., in public buildings.
11. Dampness of habitable rooms.
12. Infestation of insects, vermin or rodents.
13. General dilapidation or improper maintenance.
14. Lack of connection to required sewage disposal system.

15. Lack of adequate garbage and rubbish storage and removal facilities.

B. Structural Hazards:

1. Deteriorated or inadequate foundations.
2. Defective or deteriorated flooring or floor supports.
3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
4. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
5. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
6. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
8. Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.
9. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

C. Hazardous Wiring: All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

D. Hazardous Plumbing: All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.

E. Hazardous Mechanical Equipment: All mechanical equipment including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.

F. Faulty Weather Protection:

1. Deteriorated, crumbling or loose plaster.
2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
3. Defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved covering.
4. Broken, rotted, split or buckled exterior walls or roof coverings.

G. Hazardous Or Insanitary Premises: Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions constitute undue fire, health or safety hazards.

H. Inadequate Maintenance: Any building or portion thereof which is determined to be an unsafe building in accordance with the provisions of this code.

I. Improper Occupancy: All buildings or portions thereof occupied for living, sleeping, cooking or eating purposes which are not designed or intended to be used for such occupancies. (Ord. 13)

8-1A-6: INSPECTION:

Whenever the building and zoning officer determines by inspection that any existing building or portion thereof is substandard, he shall order the building or portion thereof vacated and shall institute proceedings to effect the repair or rehabilitation of the building or portion thereof. If such repair or rehabilitation is impractical, he shall then order such building or portion thereof removed or demolished. The owner or other person affected shall then have the right to appeal to the board of adjustment for investigation and review of the building and zoning officer's determination.

The building and zoning officer shall give notice to the owner, or other responsible person in accordance with the procedure specified in section 8-1A-2 of this article.

Any building or portion thereof found to be substandard as defined in section 8-1A-5 of this article shall be repaired, rehabilitated, demolished or removed in accordance with the procedure specified in this chapter. (Ord. 13; 1991 Code)

8-1A-7: HISTORIC BUILDING RESTORATION:

Any property owner who receives notice from the city of the existence of a substandard building on the owner's property may, within fifteen (15) calendar days of the receipt of such notice, notify the city in writing, by delivery to the office of the city clerk, that the owner claims that the building qualifies for historic restoration. Within sixty (60) days of the date of receipt of notice, the owner shall file, in writing at the office of the city clerk, a historic restoration plan which shall include the following:

A. Historic Restoration Plan Requirements:

1. A brief history of the property and substandard building structure; the date of construction; the identity of prior owners; historic and current photographs; date of purchase by present owners; and facts or circumstances to support the conclusion that the building has historic significance, including those factors described in section 2-15-2 of this code for a "historic site".
2. A detailed description of the improvements and repairs to be accomplished, including methods, specifications and materials; a time schedule for each phase of work to the date of final completion; identity of contractors, artisans and others who will provide labor for the project; estimated cost of each phase of the project and total estimated cost of the restoration.

The work necessary to eliminate the "substandard" conditions shall be given priority and scheduled in the first phases of the restoration project, to the extent reasonably possible.

3. Evidence of financial resources or approved financing sufficient to complete the restoration.

B. Building Official Review: Following the filing of a historic restoration plan, the city building official will review the plan for compliance and discuss with the owner any deficiencies or need for clarifications. The building official may make recommendations to the historic preservation commission.

C. Historic Preservation Commission Review: Within thirty (30) days of the submission of a historic restoration plan, the Spencer historic preservation commission shall review the plan and provide, to the city council, recommendations for modifications, acceptance or rejection of the plan.

D. Council Review: Within thirty (30) days of receipt of the recommendations of the historic preservation commission, the city council shall consider a historic restoration plan and shall either approve, approve with modifications, or reject such plan. If a plan is rejected, the property owner shall have a period of ninety (90) calendar days from the date of rejection of the plan to repair or remove the substandard building.

E. Historic Restoration Contract: If a plan is approved, the property owner is required to enter into a binding contract with the city to perform and fulfill the approved historic restoration plan within three (3) years of the date of the contract. If the restoration project is not timely completed, the city shall have the right to eliminate the substandard conditions, to demolish the structure, or to pursue other remedies available at law or in equity.

F. Project Sign: The owner of each building subject to an approved historic restoration plan shall maintain at the project site, during the duration of the project, a sign provided by the city, advising that the site is the subject of a historic restoration, the date of completion, and that the plan is available for review at the Spencer city hall. (Ord. 675, 9-2-2008)

ARTICLE B. CERTIFICATION OF OCCUPANCY

SECTION:

8-1B-1: Certificate Required

8-1B-2: Application

8-1B-3: Inspection; Issuance

8-1B-4: Temporary Certifications

8-1B-5: Permitting Less Than Full Compliance

8-1B-6: Penalty; Injunction

8-1B-1: CERTIFICATE REQUIRED:

It shall be unlawful for any person to occupy or reoccupy or for any owner or agent thereof to permit the occupation or reoccupation of any building or structure for which a permit has been issued under this chapter or chapter 3 or 4 of this title, until an occupancy certification has been issued by the building and zoning officer. (Ord. 604, 5-17-2004)

8-1B-2: APPLICATION:

The owner or agent of any building or structure for which a permit has been issued under this code shall apply to the building and zoning officer for an occupancy certification, and shall provide such information as required by the building and zoning officer. The application shall be submitted at least five (5) working days prior to the proposed occupancy date. It shall be unlawful for any person knowingly to make any false statement in an application for an occupancy certification. (Ord. 604, 5-17-2004)

8-1B-3: INSPECTION; ISSUANCE:

A. After receipt of an application for an occupancy certification, the building and zoning officer shall cause an inspection to be made of the building or structure specified in the application. The inspection shall verify compliance with all city code requirements, including electrical and plumbing requirements. After the inspection, the owner or his agent will be provided a list of violations, if any, that must be corrected before the building or structure may be occupied. Following correction of violations, the owner or agent shall request a reinspection. Any inspection report shall become invalid and a new inspection will be required if correction of cited violations is not completed within sixty (60) days of the initial inspection.

B. Upon determination that the building or structure is in compliance with all applicable codes and standards, an occupancy certification will be issued to the applicant. (Ord. 604, 5-17-2004)

8-1B-4: TEMPORARY CERTIFICATIONS:

Temporary occupancy certifications may be issued by the building and zoning officer when existing violations pose no serious or immediate threat to the health or safety of an occupant and when the following conditions exist:

A. The owner has been delayed in correcting violations necessary to the issuance of an occupancy certification but has a valid contract in writing with a qualified person for the performance of work and the furnishing of the materials to correct such violations, and such contract specifies the dates for commencement and completion of the work, or the owner provides an affidavit stipulating that the work is to be accomplished by the owner and specifying the date by which the work is to be completed; and

B. The owner or his agent petitions the building and zoning officer in writing for a temporary waiver of compliance with prescribed housing standards or other code or ordinance violations.

C. If the building and zoning officer finds that the delay in the correction of the violations and the plans for such correction are reasonable and the work can be undertaken and completed while the premises are occupied.

The temporary occupancy certification shall expire at the time set forth herein in the temporary certification. (Ord. 604, 5-17-2004)

8-1B-5: PERMITTING LESS THAN FULL COMPLIANCE:

The building and zoning officer may, upon written application of the owner or occupant, permit less than full compliance with any provision of this article when, in the judgment of said building and zoning officer, immediate compliance would operate as an undue hardship upon said applicant. (Ord. 604, 5-17-2004)

8-1B-6: PENALTY; INJUNCTION:

A. Any owner, agent or occupant who shall fail, refuse or neglect to comply with the provisions of this article shall be deemed guilty of a simple misdemeanor.

B. Whenever any structure is occupied contrary to the provisions of this code, the building and zoning officer may order such occupancy discontinued by notice served on any persons causing such occupancy within ten (10) days after receipt of such notice. (Ord. 604, 5-17-2004)

CHAPTER 2

ADMINISTRATION AND ENFORCEMENT

SECTION:

8-2-1: Building and Zoning Officer

8-2-1: BUILDING AND ZONING OFFICER:

A. Duties: It shall be the duty of the Building and Zoning Officer to inspect the construction and/or remodeling of all buildings within the fire limits of the City, to inspect all buildings within the City as to fire escapes and means of fire prevention, to enforce all applicable building regulations under this Title, to enforce all zoning regulations under Title 9 of this Code, to attend all meetings of the Planning and Zoning Commission and the Zoning Board of Adjustment ¹ and to sit as a nonvoting member of said Commission and said Board, and to perform all other duties now or hereinafter provided or delegated by the provisions of this Code.

B. Access to Buildings: For the purpose of performing his duties, such Building and Zoning Officer shall have the right of access to all buildings at all reasonable hours, after giving notice to the occupants of such building.

C. Stop Orders: Whenever any building work is being done contrary to the provisions of this Code, the Building and Zoning Officer may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building and Zoning Officer to proceed with the work.

D. Occupancy Violations: Whenever any structure is being used contrary to the provisions of this Code, the Building and Zoning Officer may order such use discontinued and the structure, or portion thereof, vacated by notice served on any persons causing such use to be continued. Such person shall discontinue the use within ten (10) days after receipt of such notice or make the structure, or portion thereof, comply with the provisions of this Code.

E. Liability: The Building and Zoning Officer or any employees charged with the enforcement of this Code, acting in good faith and without malice for the City in the discharge of his duties shall not thereby render himself liable personally and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the Building and Zoning Officer or other employee because of such act or omission performed by him in the enforcement of any provisions of this Code shall be defended by the City Attorney of the City until final termination of the proceedings.

F. Cooperation of Other Officials: The Building and Zoning Officer may request, and shall receive so far as may be necessary in the discharge of his duties, the assistance and cooperation of other officials of the City. (Ord. 19, 12-7-53; Ord. 145, 4-19-72; Ord. 145.1, 1-2-73; 1991 Code)

Notes

¹ 1. See Title 2, Chapters 1 and 2 respectively of this Code.

CHAPTER 3

ELECTRICAL CODE

SECTION:

8-3-1: Short Title

8-3-2: Purpose And Scope

8-3-3: Adoption Of Electrical Code

8-3-4: Amendments, Modifications, Additions And Deletions

8-3-5: Administration And Enforcement

8-3-6: Permit For Electrical Work

8-3-7: Permit; To Whom Issued

8-3-8: Application For Permit

8-3-9: Plans And Specifications

8-3-10: Emergency Work

8-3-11: Schedule Of Fees

8-3-12: Inspections

8-3-13: Right Of Entry

8-3-14: Shutting Off Supply

8-3-15: Meetings Of The Electrical Appeal Board

8-3-16: Appeal

8-3-17: Electrical Power Supply

8-3-18: Interim Application

8-3-19: Penalty

8-3-1: SHORT TITLE:

This chapter shall be known as the *SPENCER, IOWA, ELECTRICAL ORDINANCE* and may be so cited. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-2: PURPOSE AND SCOPE:

It is the purpose of this chapter to adopt a complete Electrical Code, including provisions for the inspection and regulation of electrical installations, issuance of permits and collection of fees and to provide penalties for violations of this chapter in order to protect the public safety, health and welfare.

The provisions of this chapter shall apply to and govern the supply of electricity and all sales, rentals, leases, uses, installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnections and maintenance of all electrical equipment. For the purposes of this chapter, the term "electrical equipment" means all materials, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

The following activities are exempt from the provisions of this chapter:

A. The installation, alteration or repair of electrical generation, transmission or distribution equipment, but not utilization equipment, owned and operated by an electrical public utility company or the Spencer Municipal Utilities.

B. The installation, alteration or repair of electrical signal or communication equipment owned or operated by a public utility company or the Spencer Municipal Utilities.

C. Any work on or in boats, railway cars, buses, aircraft and motor vehicles.

D. Any work in connection with electrical equipment used for radio and television transmission, but not including supply wire to such equipment.

E. Any work involved in the manufacturing or testing of electrical equipment or apparatus, but not including any permanent wiring or equipment.

F. Any work associated with:

1. The repair of plug connected electrical appliances or devices.

2. Permanently connected electrical appliances or devices that have been electrically and mechanically disconnected and separated from all sources of electrical supply by a licensed electrician. The opening of switches or the blowing or removal of fuses shall not be considered an electrical or mechanical disconnection or separation.

G. The installation or replacement of approved fuses.

H. The installation or replacement of pin-type lamps, screw base lamps or plug connected portable appliances. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-3: ADOPTION OF ELECTRICAL CODE:

The current National Electrical Code, as amended, as recommended by the National Fire Protection Association, is hereby adopted in full except for the portions that are deleted, modified or amended by this chapter. From the effective date of this chapter, all electrical work as defined in section 8-3-2 of this chapter shall be performed in accordance with the provisions of this Code as modified by this chapter. A copy of the National Electrical Code as adopted and a certified copy of this chapter shall be on file in the Office of the City Clerk for public inspection. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-4: AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS:

The following amendments, modifications, additions to and deletions from the National Electrical Code are hereby made. If the word "shall" is used, the meaning is that the act to be performed is mandatory.

A. Minimum Size Of Service Conductor's And Conduit Size:

1. Dwellings with not over nine hundred (900) square feet of finished floor space, or space which may be finished, shall be served with ungrounded service conductors of not less than No. 2, 75-degree centigrade AWG stranded copper wires, or not less than No. 1/0, 75-degree centigrade AWG stranded aluminum wires in conduit of not less than one and one quarter inches (1- $\frac{1}{4}$ ") trade size. The most current edition of the National Electrical Code (NEC) as adopted by the State of Iowa will be used to calculate the minimum size of the grounded service conductor.
2. Dwellings with nine hundred one (901) square feet to one thousand seven hundred fifty (1,750) square feet of finished floor space, or space which may be finished, shall be served with ungrounded service conductors of not less than No. 1/0, 75-degree centigrade AWG stranded copper wires, or not less than No. 2/0, 75-degree centigrade AWG stranded aluminum wires in conduit of not less than one and one half inches (1- $\frac{1}{2}$ ") trade size. The most current edition of the National Electrical Code (NEC) as adopted by the State of Iowa will be used to calculate the minimum size of the grounded service conductor.
3. Dwellings with over one thousand seven hundred fifty (1,750) square feet of finished floor space, or space which may be finished, shall be served with ungrounded service conductors of not less than No. 2/0, 75-degree centigrade AWG stranded copper wires, or not less than No. 4/0, 75-degree centigrade AWG stranded aluminum wires in conduit of not less than two inches (2") trade size. The most current edition of the National Electrical Code (NEC) as adopted by the State of Iowa will be used to calculate the minimum size of the grounded service conductor.
4. Service entrance cable, types (SE) and (USE), as defined in article 338 of the national electrical code shall not be used for services. Type (SE) shall be permitted for interior branch circuits and feeders only where the fully insulated conductors are used for circuit wiring and the uninsulated conductor is used for equipment grounding purposes.
5. The service conductor shall be installed in rigid metal conduit, intermediate metal conduit, or schedule 80 PVC conduit and that the riser conduit to the meter enclosure on an underground service shall be rigid metal conduit, intermediate metal conduit, or schedule 80 PVC conduit, except that portion of the service entrance that is totally below grade may be installed in schedule 40 PVC conduit.
6. Meter sockets of types approved by the electrical utility which provides service to the property shall be utilized.

B. Distribution Centers:

1. The minimum size service entrance panel for a dwelling with up to nine hundred (900) square feet of finished floor space, or space which may be finished, shall be at least one hundred (100) ampere, 3-wire, single main disconnect type with space for at least fourteen (14) available one hundred twenty (120) volt branch circuit spaces.
2. The minimum size service entrance panel for a dwelling with nine hundred one (901) to one thousand seven hundred fifty (1,750) square feet of finished floor space, or space which may be finished, shall be at least one hundred fifty (150) ampere, 3-wire, single main disconnect type with space for at least eighteen (18) available one hundred twenty (120) volt branch circuit spaces.
3. The minimum size service entrance panel for a dwelling with over one thousand seven hundred fifty (1,750) square feet of finished floor space, or space which may be finished, shall be at least two hundred (200) ampere, 3-wire, single main disconnect type with space for at least twenty four (24) available one hundred twenty (120) volt branch circuit spaces.

C. Branch Circuit Requirements:

1. In dwellings, all branch circuit wiring shall be no less than no. 12, 60 degree cent., AWG solid copper wires, with no more than nine (9) duplex receptacles per circuit in the living area.
2. In dwellings in the kitchen counter area, there shall be a minimum of two (2) circuits supplying one duplex receptacle each.
3. In dwellings, switch leg wiring shall be no less than no. 14, 60 degree cent., AWG solid copper wire.
4. Nonmetallic sheathed cable (NM) with copper conductors may be installed for the conductors in the concealed wood frame portions of single-family and multi-family dwellings.
5. Nonmetallic sheathed cable (NM) with copper conductors may be used in the frame portions of garages and accessory buildings that are not used as residential structures, except that, where the conductor is located in an area subject to physical damage, metal conduit or other approved raceway may be required.

D. Conduit Work: All wiring for electric light or power hereafter installed in churches, schools, theaters, motels, lodges, nursing homes, and buildings classified as commercial or industrial and places used for public assembly, warehouses, and commercial, service, repair or factory buildings and their basements shall be in an approved raceway system.

E. Flexible Conduit: Repealed.

F. Service Ground And Conductors:

1. All service grounding electrode conductors installed shall be copper.
2. The minimum size grounding electrode conductor for any service shall be no. 6.
3. The grounding electrode conductor shall terminate on a made electrode rod of steel. Said electrode shall be at least five-

eighths inch (⁵/₈") in diameter and shall be eight feet (8') in length, and shall be driven to ground level, or below ground level, when the attachment point of the electrode conductor is to be protected.

- G. Reserved.
- H. Alternate Materials And Methods: In existing buildings or premises in which electrical installations are to be altered, repaired, or renovated, the administrative authority has discretionary powers to permit deviation from the provisions of this code; provided, that such a proposal to deviate is first submitted for proper determination in order that the safety requirements, as they pertain to electrical installations, shall be observed.

(Ord. 295, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 481, 9-15-1997; Ord. 513, 3-15-1999; Ord. 661, 9-17-2007; Ord. 685, 4-6-2009; Ord. 750, 5-20-2013; Ord. 760, 4-7-2014; Ord. 831, 6-4-2018)

8-3-5: ADMINISTRATION AND ENFORCEMENT:

It shall be the duty of the electrical inspector ¹ or his duly authorized agent to administer and enforce the provisions of this chapter. He shall keep complete records of all permits issued, inspections and reinspections made and other official work performed in accordance with the provisions of this chapter. (Ord. 295, 5-21-1984, eff. 6-1-1984)

Notes

¹ 1. See also subsection 1-7-2F of this Code.

8-3-6: PERMIT FOR ELECTRICAL WORK:

No electrical work as defined in section 8-3-2 of this chapter shall be done unless a permit authorizing the work has been issued by the electrical inspector. A permit shall be issued if the electrical work, as proposed in the application for a permit, meets all the requirements of this chapter. If plans and specifications are requested by the electrical inspector, they must meet the requirements of this chapter. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-7: PERMIT; TO WHOM ISSUED:

Permits shall be issued only to electrical contractors licensed by the City. However, any permit required by this City may be issued to the owner of a single-family dwelling or mobile home used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters; provided, that the dwelling will be occupied by the owner, that the owner appears before the electrical inspector and shows himself competent to do the specific work for which he desires a permit, and that the owner personally shall purchase all materials and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected like other work. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-8: APPLICATION FOR PERMIT:

Applications for permits shall be made to the electrical inspector, on forms provided by the City Clerk, prior to beginning the particular work, except for emergency work. The application shall include the name and business address of the person that is to do the work, a description of the property where the work is to be done, the name of the owner of the property, the name of the occupant, and a general description of the materials to be used, and shall specify the particular part or parts of the work that must be inspected as required by this chapter. The application shall be accompanied by fees in accordance with the schedule of fees set out in section 8-3-11 of this chapter. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-9: PLANS AND SPECIFICATIONS:

Plans and specifications showing the proposed work in the necessary detail shall be submitted if requested by the electrical inspector. If a permit is denied, the applicant may submit revised plans and specifications without payment of any additional fee. If, in the course of the work, it is found necessary to make any change from the plans and specifications on which a permit was issued, amended plans and specifications shall be submitted. Fees in the amount of one-half (¹/₂) the fees originally required shall be paid. A supplementary permit, subject to the same conditions applicable to the original permit, shall be issued to cover the change. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-10: EMERGENCY WORK:

In emergency situations, work can be initiated and completed by licensed electricians without first obtaining a permit. However, a permit must be obtained within forty eight (48) hours excluding Saturdays, Sundays and legal holidays. With this exception, all emergency work must be done in conformity with the provisions of this chapter and shall be inspected by the electrical inspector for full compliance. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-11: SCHEDULE OF FEES:

- A. Circuits other than new building construction:
 - First circuit: Ten dollars (\$10.00).
 - Each additional circuit: Three dollars (\$3.00).
- B. Temporary service: Thirty dollars (\$30.00).
- C. Service entrances, including new circuits:

Nature Of Service	Up To 200 Amperes	201 - 400 Amperes	Over 400 Amperes
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Replacement/upgrade (includes 1 inspection)	\$30.00	\$60.00	\$60.00 plus \$10.00 for each additional 100 amps
New service (includes up to 4 inspections)	60.00	90.00	\$90.00 plus \$10.00 for each additional 100 amps

D. Additional inspections: Thirty dollars (\$30.00).

These fees shall be paid to the City Clerk at the time an application is submitted, except that additional inspection fees shall be billed upon completion and shall be due and payable twenty (20) days following the date of the statement. If a statement is paid within twenty (20) days of the date of issuance, no finance charge shall be collected. If the statement is not so paid, a finance charge of one and one-half percent ($1\frac{1}{2}\%$) per month shall be imposed and paid. (Ord. 295, 5-21-1984, eff. 6-1-1984; Ord. 623, 4-18-2005, eff. retroactive to 4-1-2005; Ord. 817, 6-5-2017, eff. 7-1-2017)

8-3-12: INSPECTIONS:

Upon the completion of electrical work that has been done under a permit, the person doing the work shall notify the electrical inspector. The electrical inspector shall inspect the work within twenty four (24) hours, exclusive of Saturdays, Sundays and holidays, after receipt of notice, or as soon thereafter as practicable.

If any electrical equipment is to be hidden from view by the permanent placement of parts of a building, structure or grounds, the person installing the equipment shall notify the electrical inspector. Such equipment shall not be concealed until it has been inspected and approved by the electrical inspector. On installations where the concealment of equipment proceeds continuously, the person installing the equipment shall give the electrical inspector due notice, and inspections shall be made periodically during the progress of the work. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-13: RIGHT OF ENTRY:

The electrical inspector shall have the right, during reasonable hours and upon consent of the occupant, to enter any building or premises in the discharge of his official duties to make any inspection, reinspection, or test of electrical equipment that is reasonably necessary to protect the public health, safety and welfare.

Where the building or premises is unoccupied the consent of the owner shall be obtained. If the electrical inspector has reasonable cause to believe that electrical installations or equipment within the building or premises constitute an extreme hazard to persons or property, he shall have the right to immediately enter and inspect such installations or equipment and may use any reasonable means required to effect such entry and make such inspection, whether such property be occupied or unoccupied and whether or not permission to inspect has been obtained. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-14: SHUTTING OFF SUPPLY:

If the electrical inspector finds that any electrical equipment or installation is defective or that it has been installed in conflict with the provisions of this chapter, he shall notify the person responsible for the electrical equipment or installation by certified mail of his findings and order. If the necessary changes or repairs are not completed within fifteen (15) days (or longer period as specified in the notice), the electrical inspector shall have the authority to disconnect or order the discontinuance of electrical service to the equipment or installation in question. No disconnection shall be made during the pendency of an appeal to the electrical board. In cases where maintenance of electrical service to electrical equipment or installations constitutes an extreme hazard to persons or property, the electrical inspector shall have authority to cause immediate discontinuance of such service.

If fires have damaged the wiring of any building or structure, reconnection to electrical supply shall not be made until authorized by the electrical inspector. (Ord. 295, 5-21-1984, eff. 6-1-1984; 1991 Code)

8-3-15: MEETINGS OF THE ELECTRICAL APPEAL BOARD ¹:

The Council shall provide suitable space in which the board may hold meetings and conduct hearings and shall provide the board necessary equipment and facilities and pay for these expenses. The board shall meet as often as may be necessary for the proper performance of its duties. A quorum of the board shall consist of two (2) members. (Ord. 801, 4-4-2016)

Notes

¹ 1. See also subsection 1-7-3G2 of this Code.

8-3-16: APPEAL:

Any person aggrieved by the ruling, decision, interpretation or order of the electrical inspector shall have the right to appeal to the electrical board by filing a written notice of such appeal with the City Clerk within ten (10) days from the date of the ruling, decision, interpretation or order. If such notice is filed, the board shall set a time and place for a hearing, and notify the party that has filed the appeal. The date of the hearing shall be not more than fifteen (15) days after the date the notice of appeal was filed. The notice of the hearing shall be sent by certified mail. The hearing shall be open to the public; all interested persons shall be given an opportunity to be heard.

The electrical board by majority vote shall affirm, modify or reverse any appealed ruling, decision, interpretation or order of the electrical inspector. The electrical board may permit variance from the strict terms and provisions of this chapter if such variance can be made without increasing the hazards to health or safety of persons or property and when the granting of such variance will not violate the intent and purposes of this chapter. Mere inconvenience to the appellant shall not be grounds for the granting of such variance. The aggrieved party may appeal the decision of the electrical board to the City Council by filing written notice of appeal within ten (10) days from the date of the final action of the board. The Council shall give five (5) days' written notice by certified mail to the appealing party, the board and electrical inspector of the date, time and place of hearing. All interested persons shall be given

an opportunity to be heard. The City Council shall affirm, modify or reverse the decision of the board. Action taken by the board shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-17: ELECTRICAL POWER SUPPLY:

It shall be unlawful for any person to make connection from a supply of electricity or to supply electricity to any electrical equipment for the installation of which a permit is required unless such connection has been authorized by the electrical inspector. It shall be unlawful to make connections to equipment that has been disconnected or ordered to be disconnected by the electrical inspector. (Ord. 295, 5-21-1984, eff. 6-1-1984)

8-3-18: INTERIM APPLICATION:

For appeal purposes, the current electrical board shall remain duly qualified for the purpose of hearing appeals until such time as the new electrical board is appointed. (Ord. 295, 5-21-1984, eff. 6-1-1984; 1991 Code; Ord. 801, 4-4-2016)

8-3-19: PENALTY:

Anyone violating any of the provisions of this chapter shall, upon conviction, be subject to penalty as provided in section 1-4-1 of this Code. (Ord. 295, 5-21-1984, eff. 6-1-1984; 1991 Code)

CHAPTER 4

PLUMBING CODE

SECTION:

8-4-1: Short Title

8-4-2: Purpose And Scope

8-4-3: Adoption Of Plumbing Code

8-4-4: Residential Automatic Fire Sprinkler System

8-4-5: Permit For Plumbing Work

8-4-6: Repairs

8-4-7: Exemption

8-4-8: Permit; To Whom Issued

8-4-9: Inspections

8-4-10: Inspection Fees

8-4-11: Applications, Bonds And Insurance

8-4-12: Plans And Specifications

8-4-13: Private Treatment Systems

8-4-14: Storm Sewer Connections

8-4-15: Protection Of Water Supply System

8-4-16: Administration And Enforcement

8-4-17: Right Of Entry

8-4-18: Appeal

8-4-1: SHORT TITLE:

This chapter shall be known as the *CITY OF SPENCER, IOWA, PLUMBING ORDINANCE*, and may be so cited. (Ord. 150, 5-1-1972)

8-4-2: PURPOSE AND SCOPE:

It is the purpose of this chapter to adopt a complete plumbing code, including provisions for inspecting and regulating plumbing installations, issuing permits, and collecting fees, and providing penalties for violations of this chapter.

The provisions of this chapter shall apply to and govern plumbing as defined in the state plumbing code. (Ord. 150, 5-1-1972)

8-4-3: ADOPTION OF PLUMBING CODE:

The state plumbing code adopting the uniform plumbing code (UPC), published by the International Association Of Plumbing And Mechanical Officials (IAPMO), as amended, as the official state plumbing code for Iowa, is hereby adopted with the following exceptions:

- A. The use of type M copper pipe or tubing for water piping is prohibited.
- B. The use of concrete sewer pipe, asbestos cement sewer pipe, and bituminized fiber sewer pipe for building sewers is prohibited.

- C. The use of a cellular core, PVC piping below grade is prohibited.
- D. The use of soldered or sweated joints below grade is prohibited. Only brazed, flared joints, or compression fittings that meet American Water Works Association (AWWA) standards are permitted below grade.
- E. The use of plastic piping in the water distribution system is prohibited except in residential automatic fire sprinkler systems as provided in section 8-4-4 of this chapter.
- F. The use of ferrous pipe and fittings in conjunction with copper pipe or tubing in the water supply system is prohibited.
- G. The use of cross linked polyethylene tubing (PEX) in residential water distribution systems and in underground installations, in strict compliance with the uniform plumbing code, is approved. In his discretion, the plumbing inspector may also approve the use of PEX in light commercial construction if he determines that PEX will not be subject to physical damage through exposure to heat or flame or mechanical or chemical damage. PEX will normally not be approved for heavy commercial or industrial applications because of the susceptibility to physical damage.
- H. There shall be installed in each service line supplying a water meter a full flow valve which shall be installed with a mechanical connection or compression fitting that meets American Water Works Association (AWWA) standards.
- I. The use of high density polyethylene (HDPE) tubing for water services lines from the curb box to the meter is permitted under the following conditions:
1. There shall be no splices or joints under a concrete floor.
 2. HDPE tubing shall be protected where it passes through a concrete floor or wall with either semiridged or ridged insulation of at least one inch (1") in thickness between all surfaces of the tubing and concrete, or through the use of a sleeve or box out so that when installed the tubing will not be in direct contact with the sleeve or box out.
 3. A permanent brace or bracket shall be used to mount a water meter served by HDPE tubing. (Ord. 150, 5-1-1972; Ord. 297, 6-4-1984; Ord. 393, 11-6-1990; 1991 Code; Ord. 494, 6-1-1998; Ord. 523, 3-6-2000; Ord. 611, 8-2-2004; Ord. 682, 2-16-2009; Ord. 701, 5-3-2010; Ord. 742, 12-3-2012; Ord. 788, 9-21-2015)

8-4-4: RESIDENTIAL AUTOMATIC FIRE SPRINKLER SYSTEM:

A. The term "residential automatic fire sprinkler system" as used herein, is defined as an integrated system of underground and overhead piping, including a water supply such as a gravity tank, reservoir, pressure tank or connection by underground piping to a public water supply. Said systems may be installed in single- family and multi-family dwelling units not exceeding four (4) stories in height. Said systems shall comply in all respects with the requirements contained in the National Fire Protection Association code, section 13R approved August 17, 2006, which nationally recognized standard code provisions are hereby incorporated in this Spencer city plumbing code by reference. Copies of the incorporated provisions of the NFPA code are available at the office of the city clerk. Plastic piping materials may be used in residential automatic fire sprinkler systems only pursuant to the provisions of NFPA.13R.

B. Reserved.

C. If a residential automatic fire sprinkler system is to be installed, that fact shall be noted on the application for the permit required under this chapter. The Building Department shall notify the City Fire Chief of the intention to install a residential automatic fire sprinkler system before construction begins.

D. Installation of a residential automatic fire sprinkler system shall comply with all rules and requirements of the Spencer Plumbing Board and of the Spencer Municipal Utilities. (Ord. 393, 11-6-1990; Ord. 682, 2-16-2009)

8-4-5: PERMIT FOR PLUMBING WORK:

No plumbing work shall be done without a license issued by the Iowa Department of Public Health Plumbing and Mechanical Systems Examining Board, or pursuant to a waiver issued by the State board pursuant to section 641-29.6(1)(c) of the State board's administrative rules; except that no such license or waiver shall be required from persons exempt from State licensing requirements pursuant to section 105.11 of the Iowa Code; and except as provided in sections 8-4-6 and 8-4-7 of this chapter. Permits shall be issued to any individual who holds a master license issued by the Iowa Department of Public Health Plumbing and Mechanical Systems Examining Board if the plumbing work, as proposed in the application for a permit, meets all the requirements of this chapter. If plans and specifications of the proposed work are required, they must also meet the requirements of this chapter. (Ord. 701, 5-3-2010)

8-4-6: REPAIRS:

Repairs that involve only the replacement of defective faucets, valves and fixtures, replacement of hot water heaters, the clearance of stoppages or the repairing of leaks in the water distribution piping may be made without a permit; provided, however, that the replacements meet all the requirements of this chapter and that there is no change in the drainage system in any form from the existing location. (Ord. 150, 5-1-1972; Ord. 150.1, 5-7-1973)

8-4-7: EXEMPTION:

The installation, alteration or repair of plumbing at facilities owned or operated by Spencer Municipal Utilities are exempt from the provisions of this chapter; provided that such work is performed by employees of Spencer Municipal Utilities. (Ord. 682, 2-16-2009)

8-4-8: PERMIT; TO WHOM ISSUED:

A permit shall be issued only to a person who is licensed pursuant to section 8-4-5 of this chapter, or to a "plumbing contractor", which is defined as any person, firm, corporation, association, or combination thereof, who has at least one (1) licensed master plumber employed and who undertakes, or offers to undertake, to plan for, lay out, supervise and do plumbing work for a fixed sum, price, fee, percentage or other compensation. A plumbing contractor shall file a list of its authorized employees with the City Clerk.

A permit required by this chapter may be issued for an owner's principal residence, if such residence is an existing dwelling, rather

than new construction and is not larger than a single- family dwelling, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings; provided, that the dwelling is occupied by the owner and also that the owner shall personally purchase all material and perform all labor in connection with the work. All work done in accordance with this exception must meet with all the requirements of this chapter and shall be inspected by the City plumbing inspector.

The fee for a permit required by this section is twenty dollars (\$20.00). (Ord. 701, 5-3-2010; Ord. 817, 6-5-2017, eff. 7-1-2017)

8-4-9: INSPECTIONS:

All work on a plumbing system requiring a permit must be inspected, and no part thereof shall be covered until it has been inspected. On new work, a final inspection is also required within twenty four (24) hours after the system is complete and operational. It shall be the duty of the permit holder or his authorized representative to notify the plumbing inspector at least four (4) working hours prior to when the installation will be ready for an inspection. (Ord. 150, 5-1-1972; Ord. 150.1, 5-7-1973)

8-4-10: INSPECTION FEES:

The following fees shall be charged for inspections made by the plumbing inspector or his authorized representative, effective July 1, 2017:

Water service	\$20.00
Sewer service	20.00
Water and sewer service at the same time	30.00
Septic tank	10.00
Water heater	15.00
Plumbing	\$5.00 for the first item requiring inspection and \$5.00 for each additional plumbing fixture or opening therefor, excluding cleanouts

(Ord. 817, 6-5-2017, eff. 7-1-2017)

8-4-11: APPLICATIONS, BONDS AND INSURANCE:

A. Application For Permit: An application for a permit shall be made to the City Clerk on forms provided by said Clerk. A permit fee of ten dollars (\$10.00) shall be paid to the Clerk with the application. The resulting fund shall be used to pay the costs of issuing permits and the expenses incurred by the City in carrying out the inspection, regulations and supervision required by the provisions of this chapter.

B. Surety Bond: Any applicant for a plumbing permit pursuant to this chapter, except the owner of a single-family dwelling as described in section 8-4-8 of this chapter, shall comply with the requirements of section 105.19 of the Iowa Code in regard to the provisions of a surety bond. If section 105.19 of the State Code is inapplicable to a specific permit, or if the State Plumbing and Mechanical Systems Examining Board has not adopted rules establishing surety requirements, then the permit applicant shall execute and deposit with the City Clerk a bond in the sum of fifteen thousand dollars (\$15,000.00) with sureties approved by the Clerk. This bond is to be held as surety that the permittee will fulfill the following conditions:

1. That all plumbing work performed by the permittee, or under the permittee's supervision, shall be performed in accordance with the provisions of the ordinances of the City.
2. That the permittee will pay all fines and penalties properly imposed for violation of the ordinances of the City.
3. That the City shall be held free from any liability sustained by reason of the negligence or incompetence of such permittee/licensee, or other person working under his supervision.

C. Permittee's Liability Insurance: Any applicant for a plumbing permit, except the owner of a single-family dwelling as described in section 8-4-8 of this chapter, required by the provisions of this chapter shall comply with section 105.19 of the Iowa Code concerning public liability insurance coverage. Until such time as the State Plumbing and Mechanical Systems Examining Board establishes rules specifying liability insurance coverages required, or in the event the State code provision or the administrative rules do not apply to a particular permit, the permittee must file and maintain proof of liability insurance with the City Clerk of at least five hundred thousand dollars (\$500,000.00) per occurrence. (Ord. 150, 5-1-1972; Ord. 601, 5-17-2004; Ord. 701, 5-3-2010)

8-4-12: PLANS AND SPECIFICATIONS:

Plans and specifications showing the proposed work in the necessary detail shall be submitted when requested by the plumbing inspector and shall be submitted in all cases where the owner is the applicant under section 8-4-8 of this chapter.

If a permit is denied, the applicant may submit revised plans and specifications without payment of any additional fee. If, in the course of the work, it is found necessary to make any change from the plans and specifications on which a permit is issued, amended plans and specifications shall be submitted. A supplementary permit, subject to the same conditions applicable to the original application for a permit, shall be issued to cover the change. (Ord. 150, 5-1-1972)

8-4-13: PRIVATE TREATMENT SYSTEMS:

When a public sewer system is not available, an application may be made for a permit to treat the waste in a private treatment system. The applicant shall prepare plans and specifications and submit them to the plumbing inspector for consideration. The system shall be designed in accordance with recommendations published by the Iowa State Department of Health and the plans shall show the location and design of the system and the location of all wells within one hundred feet (100') of the site. If approved, the plans shall be filed with the application for a plumbing permit. (Ord. 150, 5-1-1972)

8-4-14: STORM SEWER CONNECTIONS:

An application for a plumbing permit to connect to a storm sewer must be accompanied by plans and specifications which shall be reviewed and approved by the plumbing inspector prior to the issuance of a permit. (Ord. 150, 5-1-1972)

8-4-15: PROTECTION OF WATER SUPPLY SYSTEM:

The plumbing inspector shall make and enforce such regulations concerning the installation, repair or alteration of air conditioning systems, water treatment and water operated devices as he believes are necessary to properly protect the water supply systems of the City from anything which might endanger the public health, safety or welfare. These regulations are to implement the purposes of this chapter and must not be inconsistent with this chapter, or with State laws or regulations. (Ord. 150, 5-1-1972)

8-4-16: ADMINISTRATION AND ENFORCEMENT:

It shall be the duty of the plumbing inspector to administer the provisions of this chapter and to make any required inspections or tests. (Ord. 150, 5-1-1972)

8-4-17: RIGHT OF ENTRY:

The plumbing inspector and his authorized representatives may enter any premises on proof of authority for the purpose of inspecting any plumbing system at such times as may be reasonably necessary to protect the public health, safety and welfare. (Ord. 150, 5-1-1972)

8-4-18: APPEAL:

Any person aggrieved by the ruling, decision, interpretation or order of the plumbing inspector shall have the right to appeal to the plumbing board by filing a written notice of such appeal with the City Clerk within ten (10) days from the date of the ruling, decision, interpretation or order. If such notice is filed, the board shall set a time and place for a hearing, and notify the party that has filed the appeal. The date of the hearing shall be not more than fifteen (15) days after the date the notice of appeal was filed. The notice of the hearing shall be sent by certified mail. The hearing shall be open to the public; all interested persons shall be given an opportunity to be heard.

The plumbing board by majority vote shall affirm, modify or reverse any appealed ruling, decision, interpretation or order of the plumbing inspector. The plumbing board may permit variance from the strict terms and provisions of this chapter if such variance can be made without increasing the hazards to health or safety of persons or property and when the granting of such variance will not violate the intent and purposes of this chapter. Mere inconvenience to the appellant shall not be grounds for the granting of such variance. The aggrieved party may appeal the decision of the plumbing board to the City Council by filing written notice of appeal within ten (10) days from the date of the final action of the board. The Council shall give five (5) days' written notice by certified mail to the appealing party, the board and plumbing inspector of the date, time and place of hearing. All interested persons shall be given an opportunity to be heard. The City Council shall affirm, modify or reverse the decision of the board. Action taken by the board shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record. (Ord. 682, 2-16-2009)

CHAPTER 5

FENCES; HEDGES; FOLIAGE; TREES ¹

SECTION:

8-5-1: Fence, Not A Structure

8-5-2: Measurement Rule

8-5-3: Exceptions; Board Of Adjustment

8-5-4: Location And Height Restrictions

8-5-5: "Good Neighbor" Provision

8-5-6: Barbed Wire And Electric Fences

8-5-7: Permitted And Prohibited Fence Material

8-5-8: Permits

Notes

¹ 1. See section 9-11-9 of this Code.

8-5-1: FENCE, NOT A STRUCTURE:

For the purposes of this chapter, fences shall not be classified as a structure but shall be deemed a separate and distinct use of the land so as to allow their placement on a portion of a lot in which a structure or accessory building may not be located. (1991 Code)

8-5-2: MEASUREMENT RULE:

Heights of fences, hedges and other continuous foliage shall be measured from the adjacent top of the street curb, surface of an alley or the official established grade thereof, whichever is the highest. On interior lot lines the measurement shall be from the grade of the lot line thereof, whichever is higher. On interior lot lines the measurement shall be from the grade of the lot line of the parcel or property having the lower elevation. (1991 Code)

8-5-3: EXCEPTIONS; BOARD OF ADJUSTMENT:

The Board of Adjustment may consider applications for variances from the requirements of this chapter, pursuant to and in accordance with the provisions of subsection 2-2-4C of this Code. The forms and procedures for consideration of a variance and the application fee shall be the same as those applicable to a zoning variance request.

The Board of Adjustment may approve, or may direct as a condition for granting a variance, that fences or plantings of a height in excess of the requirements of this chapter be placed as screening between lots. (1991 Code; Ord. 507, 11-16-1998)

8-5-4: LOCATION AND HEIGHT RESTRICTIONS:

Fences, foliage, hedges and trees may be placed within the required setback in any zoning district only in accordance with the following requirements and limitations:

A. On lots used for residential purposes:

1. Fences may be placed inside the lot line with a height of not more than four feet (4') in the front yard and six feet (6') in side and rear yards. On corner lots, fences six feet (6') in height may be constructed not less than fifteen feet (15') from the side lot line adjacent to the street.

2. Hedges, bushes and shrubs may be placed not closer than three feet (3') to the property line and shall not be permitted to exceed a height of four feet (4') in the front yard.

3. Trees may be located not less than six feet (6') from the property line.

B. On lots used for commercial or industrial purposes which adjoin, to any extent, property used for residential purposes, the restrictions of subsection A of this section, shall apply and shall not be exceeded, except under a variance granted by the Board of Adjustment.

C. On lots used for commercial or industrial purposes which do not adjoin property used for residential purposes:

1. Fences not less than eighty percent (80%) open may be placed inside the property line to a height not exceeding ten feet (10').

2. Hedges, bushes and shrubs may be placed not closer than three feet (3') to the property line and shall not be permitted to exceed a height of four feet (4') in the front yard.

3. Trees may be located not less than six feet (6') from the property line.

D. Ivy, vines, vegetable gardens, flower gardens, grasses and other similar perennials and annuals are permitted at any location on a lot, but shall not be permitted to exceed a height of four feet (4') in any front yard. (1991 Code; Ord. 507, 11-16-1998; Ord. 838, 12-3-2018)

8-5-5: "GOOD NEIGHBOR" PROVISION:

All fences and walls constructed in the City of Spencer from and after the effective date hereof shall either be of uniform style, construction and appearance from both sides, or the more finished, covered or faced side shall face outward. The City building official is hereby granted the authority to determine which side of a fence, which does not provide uniform appearance from both sides, shall face outward. (Ord. 676, 9-2-2008)

8-5-6: BARBED WIRE AND ELECTRIC FENCES:

A. Barbed wire or electrically charged fences shall not be placed or maintained within the corporate limits of the City, except as provided in subsection B of this section, or as authorized by the Board of Adjustment.

B. Barbed wire may be incorporated in a fence constructed on a lot used for commercial or industrial purposes only if the lot does not adjoin, to any extent, property used for residential purposes and only if the barbed wire is not less than eight feet (8') above the ground, as measured pursuant to the provisions of section 8-5-2 of this chapter.

C. No variance shall be granted to permit electrically charged fences within the corporate limits of the City.

D. No variance shall be granted to permit the placement of barbed wire on or adjacent to property used for residential purposes, except that the Board of Adjustment may grant a variance to the Spencer Municipal utilities to incorporate barbed wire in a fence enclosing facilities owned and operated by Spencer Municipal utilities. (Ord. 168, 8-5-1974; Ord. 328, 2-3-1986; 1991 Code; Ord. 507, 11-16-1998; Ord. 676, 9-2-2008)

8-5-7: PERMITTED AND PROHIBITED FENCE MATERIAL:

A. Allowed Materials: Fences are to be constructed of customarily used materials such as chainlink, welded wire mesh, wrought iron, aluminum, wood, polyvinyl chloride (PVC) and other similar materials customarily used for urban residential fencing. Wood fences shall be constructed of treated lumber, cedar, redwood, or similar types of wood that are resistant to decay. Determination of material acceptability shall be made by the City's building official.

B. Prohibited Materials: The use of materials such as corrugated or sheet metal, poultry wire, woven wire, temporary construction fencing, snow fencing, livestock panels, agricultural fencing or similar materials not customarily used for urban residential fencing shall not be permitted as permanent fencing on any property zoned residential or on property immediately adjacent to property zoned residential.

C. Temporary Fencing: Temporary snow fence may be placed for snow control purposes during the period beginning October 15 and ending March 15 of any year. Snow fence so placed shall not create an enclosure. It shall be placed and used solely for snow control.

Temporary construction fences, barricades, railings, or other similar fences installed to provide temporary site security and/or safety in conjunction with construction or demolition are allowed during periods of construction or demolition. Any such temporary fences

shall be removed upon completion of the construction or demolition work. (Ord. 676, 9-2-2008)

8-5-8: PERMITS:

Prior to the construction of any fence, wall or hedge, application shall be made to the Building and Zoning Officer and a permit obtained therefor as provided in chapter 1 of this title. (1969 Code; 1991 Code; Ord. 676, 9-2-2008)

CHAPTER 6

MOVING BUILDINGS ¹

SECTION:

8-6-1: Definitions

8-6-2: Permit Required

8-6-3: Application

8-6-4: Application Approvals

8-6-5: Terms And Conditions

8-6-6: Liability Insurance

8-6-7: Protection Of Property

8-6-8: Permit Fee

8-6-9: Appeal

8-6-10: Building Permit Required

8-6-11: Exemptions

Notes

- ¹ 1. See also section 5-3-3 of this code.

8-6-1: DEFINITIONS:

For use in this chapter, the following terms are defined:

MINIMAL IMPACT ACCESSORY STRUCTURE: Any "structure" which is of new construction and does not exceed twelve feet (12') in width or fifteen feet (15') in loaded height.

MOBILE HOME: Defined as in section 135.1(1) of the code of Iowa as amended.

PERSON: Any individual, firm, corporation, trust or any other organized group.

STREET: All public streets, roads, highways, alleys or other public places.

STRUCTURE: Any house, garage, building or shelter which, when transported on the streets of the city, results in total combined dimensions of the moving vehicle and structure which exceed eight feet (8') in width or thirteen feet six inches (13'6") in height. The term "structure" shall also include anything which when moved on the streets of the city would cause an unreasonable hazard to the safety of any persons or property. (Ord. 200, 11-1-1976; Ord. 593, 10-20-2003)

8-6-2: PERMIT REQUIRED:

No persons shall move any structure on or over the streets of the city without a permit issued by the city building and zoning officer. (Ord. 200, 11-1-1976; 1991 Code)

8-6-3: APPLICATION:

Any person desiring such a permit shall file with the building and zoning officer an application in writing on forms furnished by the city. The application shall include the following:

- A. The character, size and weight of the structure to be moved.
- B. The purpose for which said structure is to be used.
- C. The locations from which and to which the structure is to be moved.
- D. The streets over which the structure is intended to be moved. (Ord. 200, 11-1-1976)

8-6-4: APPLICATION APPROVALS:

No permit to move a structure to a site within the corporate limits of the city shall be issued until it is approved by the board of adjustment ¹, except that the building and zoning officer may issue a moving permit for a "minimal impact accessory structure" without requiring board of adjustment approval. In acting upon such a request for a moving permit, the board of adjustment shall consider the following:

- A. Conformance of the proposed structure with the applicable regulations and standards established under this code.
- B. Compatibility of the structure with existing or permitted uses within three hundred feet (300') of the proposed site, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development and access and circulation features.
- C. Potentially unfavorable effects or impacts on other existing or permitted uses within three hundred feet (300') of the proposed site.
- D. Modifications or improvements to the structure which would result in increased compatibility, or would mitigate potentially unfavorable impact or which are necessary to conform to applicable regulations and standards to protect the public health, safety and welfare.
- E. Potential danger to citizens of the community, particularly owners and users of abutting property. (Ord. 200, 11-1-1976; Ord. 310, 1-21-1985; Ord. 593, 10-20-2003)

Notes

- ¹ 1. See subsection 2-2-4D of this code.

8-6-5: TERMS AND CONDITIONS:

The granting of a moving permit may be limited by conditions reasonable and proper for the protection of persons and property including, but not limited to, the following:

- A. Restrictions on the public streets or other public property over which the structure shall be moved.
- B. Requirements of changes, alterations or repairs to be made to the structure for the purpose of protecting the property of the city and its citizens, to protect the public safety and the public welfare. (Ord. 200, 11-1-1976; Ord. 310, 1-21-1985)

8-6-6: LIABILITY INSURANCE:

Every person moving a structure in the city shall file with the city clerk a liability insurance policy issued by a solvent corporation holding a certificate of authority to do insurance business in the state, which policy shall conform in all respects to the requirements of this section.

In lieu of filing the insurance policy herein referred to, a certificate of insurance issued by an insurance corporation may be filed. The certificate must show that a policy meeting the requirements of this section has been issued and shall set forth the expiration date of said policy.

The liability policy required under this section shall insure the person moving the structure against loss from liability imposed by law for injury to or death of any person or damage to any property arising out of the moving of such structure to the limits of fifty thousand dollars (\$50,000.00) on account of injury to or death of any one person, one hundred thousand dollars (\$100,000.00) on account of injury to or death of more than one person, and twenty five thousand dollars (\$25,000.00) for damage to property. (Ord. 200, 11-1-1976)

8-6-7: PROTECTION OF PROPERTY:

The person to whom a moving permit is granted shall notify the Superintendent of Public Works, the Chief of Police, and the owner's agent or representative of any utility system, to move or remove any utility and shall make satisfactory arrangements for removing and replacing the same giving such owner's agents or representatives of any utility system and the Superintendent of Public Works a minimum of at least forty eight (48) hours' notice of the necessity of such removal. If, in the judgment of the Superintendent of Public Works, planking is necessary for the protection of the City streets, the permittee shall plank all paved streets in such a manner as to protect the paving and shall also protect all sidewalks, poles and other City property and, in the event of damage, repair the damaged property.

All costs and expenses incurred by the City or the owners of any utility system which may be necessary for the protection of the rights of any owner or any other party interested in any property affected shall be paid by the party to whom the moving permit is issued. (Ord. 200, 11-1-1976; Ord. 310, 1-21-1985)

8-6-8: PERMIT FEE:

The fee for the issuance of a moving permit hereunder shall be fifty dollars (\$50.00). (Ord. 200, 11-1-1976; Ord. 817, 6-5-2017, eff. 7-1-2017)

8-6-9: APPEAL:

Any person aggrieved by the refusal to grant a permit hereunder shall have the right to appeal to the Board of Adjustment within forty eight (48) hours of the issuance of the permit. Such appeal shall be perfected within forty eight (48) hours by filing with the City Clerk, during normal business hours, a statement that an appeal is requested to the Board of Adjustment, together with a brief statement of the reasons or facts upon which the appeal is based. Pursuant to its rules and regulations, the board shall then hear the appeal and grant the permit or sustain the decision of the building and zoning officer in denying the permit. If the denial is sustained, the board shall state the reasons therefor. (Ord. 200, 11-1-1976; 1991 Code)

8-6-10: BUILDING PERMIT REQUIRED:

Compliance with the provisions of this chapter shall not relieve or excuse the applicant from complying with the requirements of chapter 1 of this title, including the requirement of obtaining a building permit under the provisions of said chapter 1 of this title. (Ord. 200, 11-1-1976)

8-6-11: EXEMPTIONS:

- A. Moving Through City: When a structure is to be moved through the City to a point outside the City, and the person moving the

structure has been issued a moving permit by the State or Clay County, the building and zoning officer may exempt such persons from the requirements of this chapter if it appears that no damage will be done to the property of the City or its citizens as a result of such move.

B. Mobile Homes Within The City: When a mobile home is to be moved from outside the City to a licensed mobile home park within the City or from one (1) licensed mobile home park within the City to another licensed mobile home park, the building and zoning officer may exempt the mover from the requirements of this chapter if it appears that no damage will be done to the property of the City or its citizens as a result of such move.

C. Factory Built Structures: Factory built structures, which shall include "manufactured homes" as defined in section 414.28 of the Iowa Code or title 42, section 5402 of the United States Code, and modular homes as defined in section 135D.1 of the Iowa Code, for which a moving permit has been issued by the Iowa Department of Transportation shall be exempt from the requirements of this chapter. (Ord. 200, 11-1-1976; 1991 Code; Ord. 409, 1-20-1992)

CHAPTER 7

SIGNS, CANOPIES, AWNINGS AND MARQUEES

SECTION:

8-7-1: Purpose

8-7-2: Sign Permit Required

8-7-3: Application For Sign Permit

8-7-4: After Acquired Permit Fee

8-7-5: Issuance Of Sign Permit

8-7-6: Definitions

8-7-7: General Prohibition

8-7-8: Prohibited Signs

8-7-9: Signs Requiring No Permit

8-7-10: Permitted On Premises Sign; Permit Required

8-7-11: Nonconforming Signs

8-7-12: Amortization Of Certain Nonconforming Signs

8-7-13: Calculation Of Sign Area

8-7-14: Structural And Maintenance Requirements

8-7-15: Application; Installation; License

8-7-16: License Fee

8-7-17: Bond; Insurance

8-7-18: Variances; Procedure

8-7-19: Obstructions

8-7-1: PURPOSE:

The regulations in this chapter establish comprehensive minimum requirements for the control of signs in order to preserve, protect and promote the public health, safety, morals and general welfare. More specifically, this chapter is intended to assist in achieving the following objectives, to:

A. Authorize the use of signs which are:

1. Compatible with their surroundings and the zoning district.
2. Appropriate to the type of activity.
3. Expressive of the identity of the proprietors.
4. Legible in the circumstances.

B. Foster high quality commercial development and to enhance the economic vitality of existing businesses by promoting the reasonable, orderly and effective display of signs and to encourage better communication with the public.

C. Encourage sound, proper display practices and to mitigate the objectionable effects of competition in respect to the size and placement of signs.

D. Reserved.

E. Protect pedestrians and motorists from damage or injury that might result from the improper construction, placement or use of signs.

F. Protect the public by reducing the obstructions and distractions which might cause traffic accidents.

G. Preserve the value of private property by assuring the compatibility of signs with nearby land uses.

H. Protect the physical and mental well being of the general public by recognizing and encouraging a sense of aesthetic appreciation for the visual environment.

I. Preserve and enhance the natural beauty and unique character of the City.

J. Promote and aid the Iowa Great Lakes area tourist industry which is declared to be of importance to the economy of the City.

K. Promote convenience, enjoyment and free flow of traffic within the City.

L. Protect the public's ability to identify uses and premises without confusion. (1991 Code; Ord. 470, 3-18-1996)

8-7-2: SIGN PERMIT REQUIRED:

A permit shall be required for any sign to be erected, constructed, altered, relocated, or maintained within the City, except as excluded under section 8-7-9 of this chapter.

Permits are issued by the building and zoning officer.

Repairing, painting or resurfacing which involves no significant change in the structure or materials of the sign requires no permit. (1991 Code)

8-7-3: APPLICATION FOR SIGN PERMIT:

An application for a sign permit shall be submitted to the building and zoning officer and shall include the following:

A. Name, address and telephone number of the applicant, property owner and owner of the sign.

B. Location and legal description of the building, structure or parcel of property to which or upon which the sign is to be attached or erected.

C. A site plan detailing the position of the sign in relation to nearby buildings, structures, property lines and rights-of-way.

D. A description or sketch of the construction, location and support.

E. A sketch showing sign faces, exposed surfaces and proposed method of attachment, accurately represented in scale as to size, area, proportion and color.

F. Name of person, firm, corporation or association erecting sign.

G. Such other information as the building and zoning officer shall require to show full compliance with all ordinances of the City.

H. A permit fee in the amount of thirty five dollars (\$35.00). (1991 Code; Ord. 597, 12-15-2003; Ord. 817, 6-5-2017, eff. 7-1-2017)

8-7-4: AFTER ACQUIRED PERMIT FEE:

If a sign is constructed, erected, installed or altered without the issuance of a permit required under this chapter, the permit fee shall be increased to one hundred dollars (\$100.00). (1991 Code; Ord. 602, 5-17-2004)

8-7-5: ISSUANCE OF SIGN PERMIT:

It shall be the duty of the building and zoning officer, upon the filing of an application for a sign permit, to examine such application and other information related to the proposed erection of the sign and sign structure. If it shall appear that the proposed sign and sign structure is in compliance with all the requirements of all ordinances of the City, the sign permit shall then be issued. (1991 Code)

8-7-6: DEFINITIONS:

For the purpose of this chapter, the following words and terms shall have the following meanings:

AWNING: Any retractable structure made of cloth, metal, or other material attached to a building; erected to permit raising or retracting to a position against the building when not in use.

BULLETIN OR ANNOUNCEMENT SIGN: A sign placed on premises of a nonprofit, religious or public organization which provides information related only to the functions and activities of the organization.

CANOPY: A structure designed to cover or shade windows, entries or walkways, other than an awning, made of cloth, vinyl, canvas or other similar material with frames.

CENTRAL BUSINESS DISTRICT (CBD): The area of the City bounded by Park Street, Ninth Street, Second Avenue East and Second Avenue West. The CBD includes only property within the bounding streets and not property outside the boundary, which is adjacent to the street.

DEVELOPMENT SIGNS: Signs which identify the architects, developers, engineers, contractors and other individuals or firms involved with the construction, and/or announcing the character or purpose of a building, but not advertising a product. Development signs shall be removed within fourteen (14) days of completion of construction or from the time eighty percent (80%) of the building is occupied, whichever comes first.

EXTERNALLY ILLUMINATED SIGN: A sign illuminated by a source of light which is cast upon the surface or face of the sign to illuminate by reflection only.

FLASHING SIGN: (This term commonly includes those signs known as animated signs.) A sign in which the illumination intermittently flashes off and on in whole or in part.

FREESTANDING SIGN: (This term includes those signs commonly known as a ground mounted sign, monument sign and pole sign.) A sign completely or principally self-supported by post or other supports independent of any building or other structure or anchored in or upon the ground.

HISTORICAL SIGN: Any sign that is historic or historically established for use in relationship to a structure that is exactly or reasonably preserved or restored to the condition of its original historic period.

INTERNALLY ILLUMINATED SIGN: A sign, all or any part of, which is made of incandescent, neon or other types of lamps, or a sign with paint, flush or raised letters lighted by an electric lamp or lamps within the sign cabinet, or a transparent sign lighted from within by electricity or other illuminate.

MARQUEE: Any hood of permanent construction projecting from the wall of a building but not supported by the ground or sidewalk serving the purpose of providing shelter and protection from the weather.

MOVING SIGN: Any sign which rotates or moves or gives the visual impression of rotation or moving, including signs mounted or constructed to permit movement by air currents.

MURAL: A hand-produced work of visual art which is painted by hand directly upon an exterior wall of a building or painted on a surface which is then mounted on an exterior wall of a building and which complies with the requirements of this chapter.

OFF PREMISES SIGN: A sign which directs attention to a use, business, commodity, service or activity not conducted, sold or offered upon the premises where the sign is located.

PEDERSON PARK SIGNS: Signs of a temporary nature affixed to the outfield fences of baseball and softball fields at the City's Pederson Park which comply with the following restrictions:

- A. Signs shall be securely fastened to the outfield fence in a manner approved by the City's Parks and Recreation Director.
- B. Signs shall be single sided and face the field.
- C. Signs shall be placed only during the period from April 1 to September 30 in any year.

Pederson Park signs shall be exempt from the requirements of section 8-7-14 of this chapter.

PERMANENT SIGN: A sign or sign structure which is directly affixed to the ground surface or any part of a building or structure.

PORTABLE SIGN: (This term also includes those signs commonly known as sandwich signs.) Any sign that is not permanently affixed to a building, structure or the ground. A sign designed to be moved from place to place. These signs primarily include, but are not limited to, signs attached to wood or metal frames designed to be self-supporting and movable; or paper, cardboard, or canvas signs wrapped around supporting poles. Any sign on a structure with wheels attached or designed for wheels to be attached is a portable sign.

PROJECTING SIGNS: (This term also includes those signs commonly known as overhanging signs.) A sign supported by a building or other structure which projects over any street, sidewalk, alley or public way or public easement or which projects more than twelve inches (12") from the face of the building, structure or supporting wall, excluding canopies, awnings or marquees.

PUBLIC SIGN: Any sign which is owned or maintained by a local, regional or State governmental subdivision.

REAL ESTATE SIGN: A sign erected for purposes of advertising a parcel or building available for sale, rental or lease.

ROOF SIGN: A sign erected, constructed or maintained in whole or in part upon or over the roof of a building or structure.

SIGN: A sign is any object, device, display, or structure or part thereof which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illuminations or projected images. The term "sign" includes, but is not limited to, every projecting sign, wall sign, painted sign, roof sign, billboard, posterboard, freestanding sign, ground sign, pole sign, window sign, vehicle sign, awning, canopy, marquee, changeable copy sign, illuminated sign, flashing sign, animated sign, temporary sign, portable sign, pennants, banners, streamers or any other attention getting device or other display, whether affixed to a building or separate from any building.

SIGN STRUCTURE: A structure constructed for the purpose of displaying or supporting a sign.

TEMPORARY SIGN: Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials with or without frames. Temporary signs shall not be displayed more than twenty one (21) days during any ninety (90) day period.

TIME, TEMPERATURE AND INFORMATIONAL SIGN: As regulated by this chapter, shall mean a sign whereon the time, temperature and/or information is indicated by intermittent lighting.

VEHICLE SIGN: Any advertising or business sign attached to a motor vehicle which is parked and placed in position for the purpose of displaying the same to the public, except signs painted or attached to the original body of the vehicle.

WALL SIGN: A sign mounted, attached to or painted on the exterior wall of a building or structure in a plane parallel to that of the supporting wall.

WINDOW SIGN: A sign visible from the exterior of a building or structure which is painted on a window, depicted upon a card, paper or other material; or placed on, attached to, or hung immediately behind the window, or displayed from a window for the specific purpose of attracting attention to a sale or to promotional items or other products or services. (1991 Code; Ord. 406, 1-20-1992; Ord.

8-7-7: GENERAL PROHIBITION:

Any sign not expressly permitted by this chapter shall be deemed prohibited within the City. (1991 Code)

8-7-8: PROHIBITED SIGNS:

The following signs are prohibited within the corporate limits of the City:

- A. Portable signs, as defined in section 8-7-6 of this chapter.
- B. Attention getting devices, including temporary signs, searchlights, propellers, pennants, streamers, ribbons, strings of light bulbs, spinners, balloons and similar devices, except for special occasions such as grand openings, which shall be limited to fourteen (14) days. No temporary special occasion signing shall be permitted more than two (2) times in any twelve (12) month period for the same enterprise or location.
- C. Signs which have blinking, flashing or fluttering lights, excluding time and temperature signs, as defined in section 8-7-6 of this chapter.
- D. Moving signs.
- E. Signs which produce movements achieved by normal wind currents, other than weather vanes unrelated to business or commerce.
- F. Signs that contain statements, words or pictures of an obscene, indecent or immoral character, such as will offend community standards or public morality or decency.
- G. Signs which advertise illegal activities.
- H. Any sign or sign structure which constitutes a hazard to public health or safety.
- I. Signs which by reason of size, location, content, coloring or manner of illumination obstruct the vision of drivers, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads.
- J. Signs which are structurally unsafe, which have broken components, which are illegible, in whole or in part, or which present a danger to the public.
- K. Signs using human beings or live animals as part of the message or display which are visible from any public street, except for a period of not more than twenty four (24) hours in connection with a special promotional activity.
- L. Private signs which contain words such as "Stop", "Look", "One-Way", "Danger", "Yield", or phrases, symbols, lights, or characters in such a manner as to interfere with, mislead or confuse the public.
- M. Abandoned signs. (1991 Code; Ord. 406, 1-20-1992)

8-7-9: SIGNS REQUIRING NO PERMIT:

- A. Directional and informational signs erected for the convenience of the public, such as signs identifying entrances, exits, parking and no parking areas, restrooms, public telephones, walkways and similar features or facilities. Such signs shall not exceed six (6) square feet per sign.
- B. Flags of any country, state or unit of government; flags of fraternal, religious and civic organizations.
- C. Decorations clearly incidental and customary and commonly associated with a national or local holiday provided they shall be displayed for a period of not more than sixty (60) days for each holiday.
- D. Temporary residential signs, such as signs advertising a garage or yard sale on private residential property. Such signs shall not exceed four (4) square feet in surface area, shall be confined to private property, shall be placed not less than two feet (2') from the nearest property line and shall not be placed for more than seventy two (72) hours during any thirty (30) day period. Such signs shall not be placed in any street right-of-way, including "parking".
- E. Public signs, such as traffic control signs or informational signs erected or required by governmental bodies, railroad crossing signs, legal notices, safety signs, signs indicating the location of underground cables, etc.
- F. Integral signs carved into stone or inlaid so as to become part of the building and containing such information as date of erection, name of building and memorial tributes.
- G. Interior signs located in the interior of any building or within an enclosed lobby or court of any building or group of buildings, provided such signs are not visible from the exterior of such buildings.
- H. Political or opinion signs concerning candidates seeking public office, political issues or opinion or commentary. Such signs may be placed on private property not less than two feet (2') from the property line, and shall not exceed four (4) square feet in area.
- I. Property regulation signs (no hunting, no trespassing) which shall not exceed three (3) square feet.
- J. Real estate signs indicating the sale, rental or lease of the premises on which they are located. There shall be only one sign per building lot except that two (2) signs are allowed on a corner lot. Such signs shall not be closer than two feet (2') to the nearest lot line, shall not project over the property line, and shall be removed within seven (7) days after the sale or lease. Such signs shall not have a surface area of more than six (6) square feet. Such signs shall not be separately electrified or illuminated.
- K. Utility company signs that serve as an aid to public safety or that show the location of public telephones, underground cables, etc.

L. Temporary window signs, such as poster and advertisements, which do not cover more than twenty percent (20%) of the surface area of the window.

M. Vehicle signs, provided the sign is painted or attached directly to the body of the original vehicle and does not project or extend beyond the original manufactured body of the vehicle.

N. Window decals or emblems which represent membership in a civic, political, professional, commercial, charitable, philanthropic or religious organization, not exceeding thirty six (36) square inches in area, per decal, not to exceed one hundred (100) square inches per storefront.

O. Signs posted in conjunction with doorbells or mailboxes, not exceeding sixteen (16) square inches.

P. Signs not visible beyond the boundaries of the lot or parcel upon which they are situated or from any public thoroughfare or right-of-way.

Q. Historic signs which are incorporated into the design of the building, such as building names and dates constructed.

R. One residence identification or decorative sign not exceeding nine (9) square feet in area on a residential lot and residential identification signs not exceeding six (6) square feet in area.

S. Pederson Park signs. (1991 Code; Ord. 406, 1-20-1992; Ord. 553, 8-6-2001; Ord. 692, 8-17-2009; Ord. 803, 5-16-2016)

8-7-10: PERMITTED ON PREMISES SIGN; PERMIT REQUIRED:

A. Exterior Illuminated Sign Regulations:

1. No red, yellow, green or other colored light shall be used at any location in such a manner as to confuse or interfere with vehicular traffic.

2. Beacon lights and illumination by flame are prohibited.

3. The light which is cast upon any illuminated signs shall be shaded, shielded or directed so as to avoid the creation or continuation of any nuisance or traffic hazard.

4. No exposed reflective type bulb or incandescent lamp which exceeds fifteen watts (15 W) shall be used with any sign in such a manner as to expose the face of the bulb, light or lamp to any public street or to adjacent property.

5. In no case shall the lighting intensity of any sign exceed the limit of seventy five (75) foot-candles measured with a standard light meter perpendicular to the face of the sign at a distance equal to the narrowest dimension of the sign, whether it be the height or width.

6. No sign shall be either directly or indirectly illuminated in such manner as to adversely affect the use and enjoyment of nearby buildings.

B. Wall Sign Regulations:

1. No wall signs shall wholly or partially cover any wall opening nor project beyond the ends of the wall or beyond the top of the building facade to which it is affixed.

2. Wall signs must be affixed flat against the building wall. Any projection shall be limited to the necessary mounting frame and shall not exceed twelve inches (12").

3. The wall sign shall be safely and securely affixed to the building wall.

C. Projecting Sign Regulations:

1. Every projecting sign, including the frames, braces and supports thereof, shall be securely built and designed.

2. Projecting signs are not permitted at the intersection of streets, except at right angles to a building front.

3. No parts of the sign or of its supports or appurtenances shall project into the line of any street, sidewalk, alley or other public right-of-way beyond a point of two feet (2') inside the curb line. No projecting sign shall, at its lowest point, be less than ten feet (10') above the sidewalk or ground level.

D. Freestanding Sign Regulations: All freestanding signs shall be securely built, constructed, erected, and certified safe by a registered architect or engineer upon post and standards sunk below the natural surface sufficient to prevent overturning.

E. Marquee Regulations:

1. The roofs of all marquees shall be used for no other purpose than to form and constitute a roof, except for businesses providing live entertainment or motion pictures.

2. No portion of a marquee or a sign attached to a marquee shall be less than ninety inches (90") above the level of the sidewalk or other public way.

3. No marquee shall be permitted to extend beyond a point two feet (2') inside the curb line.

4. Marquees shall be supported solely by the building to which they are attached and no columns or posts shall be permitted as supports.

5. The roof of any marquee shall be designed and constructed to support a live load of not less than sixty (60) pounds per square foot.

6. Marquees shall be designed to withstand a wind pressure of not less than eighty (80) miles per hour.

7. Signs attached to a marquee shall be considered a part of the marquee for purposes of this chapter.

F. Awning And Canopy Regulations:

1. No awning or canopy shall be constructed and erected so that the lowest solid element is less than ninety inches (90") above the sidewalk or public way. Nonsolid components of an awning or canopy, such as fringe or a vinyl or canvas flap shall be not less than eighty four inches (84") above the sidewalk or public way.

2. Every awning shall be securely attached to and supported by the building.

3. No awning or canopy shall be permitted to extend beyond a point two feet (2') inside the curb line.

4. All canopy supports shall be designed and constructed so as to not obstruct the continuous flow of pedestrian traffic along any sidewalk.

G. Zoning Restrictions:

1. Signs shall be permitted in each zoning district established under title 9 of this Code as an accessory use.

2. Only the following types and classifications of signs shall be permitted in the A Residential District and B Multiple Residential District established pursuant to title 9 of this Code.

a. Signs permitted under the provisions of section 8-7-9 of this chapter.

b. Bulletins or announcement signs as defined in section 8-7-6 of this chapter. In Residential Zoning Districts, such signs shall not exceed twenty four (24) square feet in surface area and shall not be closer than fifteen feet (15') to any lot line. The height of the sign shall not exceed six feet (6').

H. Murals: Murals may be placed on the side or rear exterior wall of a commercial building, but not on the primary facade, subject to the following restrictions:

1. A mural shall not contain text (letters or numbers) over more than three percent (3%) of the mural area.

2. A permit, pursuant to sections 8-7-2 and 8-7-3 of this chapter is required for each mural.

3. The creator of a mural shall be exempt from the license requirements of section 8-7-15 of this chapter.

4. Murals are exempt from the limitation of subsections 8-7-13E and F of this chapter.

5. Murals may be placed only on property located in the B-1, CBD, C-1, C-2, F, D, E, E-1 and R Riverfront Zoning Districts.

6. Murals are subject to the provisions of section 8-7-8 of this chapter.

7. Murals created on surfaces to be attached to a building wall shall comply with the requirements of section 8-7-14 of this chapter, except subsection 8-7-14O of this chapter, which shall not apply.

8. Murals to be placed on designated historic buildings or contributing buildings within the Historic District of the City of Spencer shall be presented to the Historic Preservation Committee for review, comment, and suggestions prior to issuance of a sign permit. Such murals shall be created on a surface which can be attached to the wall of an historic or contributing building and later removed, without significant damage to the historic building.

9. The paint used in the creation of a mural shall be appropriate for use in an outdoor location, shall be appropriate for an artistic rendition, and shall be long lasting. Reflective neon and fluorescent paint shall not be used.

10. A mural shall be designed and painted in consultation with a qualified mural artist or artists with knowledge and experience in the design and creation of wall murals.

11. All murals are subject to the maintenance requirements of subsection 8-7-14B of this chapter. (1991 Code; Ord. 406, 1-20-1992; Ord. 432, 12-7-1992; Ord. 470, 3-18-1996; Ord. 842, 2-4-2019)

8-7-11: NONCONFORMING SIGNS:

Signs existing at the time of the enactment of this chapter and not conforming to its provisions, but which were constructed in compliance with previous regulations and ordinances shall be regarded as nonconforming signs. Nonconforming signs shall not be:

A. Changed to another nonconforming sign.

B. Structurally altered so as to prolong life of the sign.

C. Expanded.

D. Reestablished after discontinuance of the sign use for a period of thirty (30) days.

E. Moved in whole or in part to another location unless said sign, and the use thereof, is made to conform to all regulations of this chapter.

F. Reestablished after damage or destruction by any means, including an act of God, exceeding fifty percent (50%) of the estimated initial value of the sign, as determined by the Building and Zoning Officer. (1991 Code)

8-7-12: AMORTIZATION OF CERTAIN NONCONFORMING SIGNS:

A. Signs which do not conform to the provisions of this chapter, but which lawfully existed and were maintained prior to January 20, 1992, and which violate the specific subsections of this chapter listed below, shall be removed or made to conform on or before

January 1, 2001, a period of approximately ten (10) years from the effective date of this chapter:

8-7-10C3 Relating to projecting signs

8-7-10F Relating to awnings and canopies

B. If a sign becomes nonconforming due to an amendment of this chapter, the five (5) year amortization period shall be measured from the effective date of the amendment. (1991 Code; Ord. 470, 3-18-1996)

8-7-13: CALCULATION OF SIGN AREA:

- A. If a sign is enclosed by a box or an outline, the total area will be the sign area.
- B. If a sign consists of individual letters or figures, the imaginary square or rectangle which would enclose all letters or figures shall be the sign area.
- C. Only one side of a double-faced sign shall be counted.
- D. The area of signs of unusual shapes, such as globes, cylinders, pyramids, shall be computed as one-half ($\frac{1}{2}$) the total of the exposed surfaces.
- E. In all cases, total allowable sign area shall not exceed twenty percent (20%) of the total square footage of the front of any building.
- F. In all cases, total allowable sign area for rear entrances shall not exceed twenty percent (20%) of the total square footage of the rear facade of any building. (1991 Code)

8-7-14: STRUCTURAL AND MAINTENANCE REQUIREMENTS:

- A. The wiring of all signs shall be contained and enclosed and shall conform to the provisions of the Electrical Code¹.
- B. Every sign shall be maintained in a safe, neat and attractive condition by its owner. The sign supports shall be kept painted/treated to prevent rust, deterioration, rotting or corrosion.
- C. No sign shall be erected, placed or mounted in such a manner as to interfere with any exit, fire escape or window in any building.
- D. If a sign is illuminated, the source of such illumination shall be kept in a state of working order at all times.
- E. All signs shall be designed to withstand a wind pressure of not less than eighty (80) miles per hour and shall be constructed to receive dead loads as required in the Building Code or other ordinances of the City.
- F. No signs or sign structure shall have any nails, tacks, wires, or sharp metal edges protruding therefrom.
- G. Any glass forming a part of a sign shall be heavy safety glass and a minimum of one-fourth inch ($\frac{1}{4}$ ") in thickness. Where any single piece or pane of glass has an area exceeding three (3) square feet, it shall be wired glass.
- H. No sign shall be erected, placed or mounted in such a manner as to interfere with snow removal or utility maintenance.
- I. No sign shall be erected, placed or mounted closer than ten feet (10') to any electrical service wire nor closer than five feet (5') from any telephone or communication cable.
- J. All letters, figures, characters or representations in cut out or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure.
- K. Every marquee, freestanding, wall or projecting sign, including frame, braces and support thereof, shall be securely built, as may be required by the Building and Zoning Officer.
- L. All signs shall be mounted in one of the following manners:
 - 1. Flat against a building or wall.
 - 2. Back to back in pairs so that the backs of signs will be screened from public view.
 - 3. Otherwise mounted so that the back of all signs or sign structures showing to the public view shall be painted and maintained a neutral color or a color that blends with surrounding environment.
- M. All signs shall be constructed to not hold water, snow or ice.
- N. When any sign is found to be hazardous to a person or property or if any sign shall be unlawfully installed, erected or maintained, in violation of the provisions of this Code, the owner thereof or the person or firm maintaining the same, shall upon written notice of the Building and Zoning Officer forthwith in the case of immediate danger, and in any case, within not more than ten (10) days, make such sign conform to the provisions of this chapter or remove it.
- O. All signs which remain after a business has ceased operation for a period of thirty one (31) days shall be removed within thirty (30) days, or shall be considered to be abandoned signs.
- P. Signs constructed or maintained in violation of the provisions of this chapter are hereby deemed to constitute nuisance and are subject to actions for nuisance violations under title 4, chapter 1 of this Code, the Code of Iowa, the Municipal infraction procedures contained in title 1, chapter 4, article A of this Code, and, if applicable, criminal violation procedures. (1991 Code)

- ¹ 1. See chapter 3 of this title.

8-7-15: APPLICATION; INSTALLATION; LICENSE:

Any person desiring to engage in the business of erecting or installing signs shall make application for a license to do so, to the Clerk, which application shall set forth the name and business address of the applicant, and if the applicant is a firm or partnership, the names of the partners, and in the case of a corporation, the names of the president and secretary, and the name of the person who will have charge of sign installation within the City. (1991 Code)

8-7-16: LICENSE FEE:

The annual license fee for engaging in the business of installing signs shall be forty dollars (\$40.00). All sign installer licenses shall terminate on the last day of February of each year. (Ord. 741, 12-3-2012)

8-7-17: BOND; INSURANCE:

No license shall be issued until a bond has been filed with the Clerk with sureties approved by said Clerk indemnifying the City against any loss, expense, judgment or damages which the City might incur or suffer by reason of the granting of a permit to erect or install signs, such bond to be in the amount of twenty five thousand dollars (\$25,000.00) or in such amount as may be determined by the Council. In lieu of such bond, the applicant may file with the City evidence of liability insurance acceptable to the City to be in full force and effect during the period the license is issued, which liability insurance shall be in such amount as may be satisfactory to the City. (1991 Code)

8-7-18: VARIANCES; PROCEDURE:

A sign owner may request a variance from the terms of this chapter which will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

A. Application: An application for a variance from the provisions of this chapter shall be filed in writing with the Building and Zoning Officer. The application shall contain the following:

1. Name and address of the owner or applicant.
2. Address and legal description of the property where the sign is located.
3. A statement describing the variance requested and the reasons why a variance is required.
4. A map, sketch or drawing which depicts, with reasonable accuracy, the size, shape and location of the sign and supporting structures and the sign's relationship to other structures.

B. Additional Information: The Building and Zoning Officer may request additional information necessary to enable a complete analysis and evaluation of the variance request and a determination as to whether the circumstances prescribed for the granting of a variance exist.

The application shall be accompanied by a fee established by the City Council.

C. Board Of Adjustment: All requests for variances from the provisions of this chapter shall be submitted to the Board of Adjustment which shall consider an act upon variance requests under this chapter in the same matter and applying generally the same standards, to the extent applicable, as in considering variances from the provisions from the Spencer Municipal Zoning Code ¹. (1991 Code)

- ¹ 1. See title 9 of this Code.

8-7-19: OBSTRUCTIONS:

A. No sign shall be placed or erected across or so as to obstruct, in any manner, any required window, door, exit or entrance of, to or from any building.

B. No sign shall be attached to or placed upon a building in such a manner as to obstruct any fire escape, nor shall any sign be attached to any fire escape.

C. No posterboards, billboards or ground signs shall be placed closer than fifty feet (50') to any railroad crossing.

D. No posterboards, billboards or ground signs shall be placed or reconstructed on that portion of any corner lot which is bounded by the street lines of the intersecting streets and a line connecting two (2) points on said street lines twenty feet (20') from their point of intersection; except, this prohibition shall not apply at intersections located in nonresidential areas of the City when at least two (2) of the intersecting streets are controlled by "stop" signs or "stop" signals.

E. No signs shall otherwise be erected or placed so as to interfere with traffic, or to confuse or obstruct the view of any official sign, signal or traffic device. (Ord. 396, 2-4-1991; Ord. 470, 3-18-1996)

CHAPTER 8

COMMUNICATIONS TOWERS AND WIND ENERGY SYSTEMS

SECTION:

8-8-1: Short Title

8-8-2: Purpose And Scope

8-8-3: Definitions

8-8-4: Contractor's License

8-8-5: Communications Tower Or Wind Energy System Permit

8-8-6: Communications Tower Regulations

8-8-7: Joint Use

8-8-8: Abandoned Or Obsolete Towers Or Wind Energy Systems

8-8-9: Wind Energy System Regulations

8-8-10: Certified Wind Site Assessment

8-8-1: SHORT TITLE:

This chapter shall be known as the *CITY OF SPENCER, IOWA, COMMUNICATIONS TOWER AND WIND ENERGY SYSTEM ORDINANCE* and may be so cited. (Ord. 712, 11-1-2010)

8-8-2: PURPOSE AND SCOPE:

The purpose of this chapter is to provide for the licensing and regulation of contractors engaged in the construction of "communications towers" and "wind energy systems" in the city; to require permits for communications towers and wind energy systems; to regulate the location of communications towers and wind energy systems; and to enact standards and requirements applicable to communications towers and wind energy systems in the city.

The provisions of this chapter shall apply to all communications towers and wind energy systems in the city. (Ord. 712, 11-1-2010)

8-8-3: DEFINITIONS:

COMMUNICATIONS TOWERS: An independent structure of a height more than thirty five feet (35') above ground level used for transmitting or receiving wireless communications.

CONTRACTOR: For purposes of this chapter, the term "contractor" shall mean any person or entity who engages in the placement or construction of any communications tower or wind energy system in the city of Spencer.

ENGINEER: For purposes of this chapter, the term "engineer" shall mean a registered professional engineer certified under the laws of the state of Iowa.

METEOROLOGICAL TOWER (MET TOWER): Includes the tower, base plate, anchors, guy cables and hardware, anemometers, wind direction vanes, data logger, instrument wiring, telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time, and appurtenances.

TOTAL HEIGHT (Of A Wind Energy System): The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

WIND ENERGY SYSTEM: Equipment that converts and then stores or transfers energy from wind into usable forms of energy, including any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components. (Ord. 487, 1-5-1998; Ord. 712, 11-1-2010)

8-8-4: CONTRACTOR'S LICENSE:

No person shall engage in the construction or erection of a communications tower or wind energy system in the city unless licensed pursuant to this section. A contractor's license will be issued by the city clerk upon submission of a written application on forms obtained from the city clerk and upon fulfilling the fee, bonding and insurance requirements specified herein. The licensing period shall be from February 1 to January 31.

A. Fee: The license fee for a contractor's license for the licensing period, or any part thereof, shall be twenty dollars (\$20.00).

B. Surety Bond: A surety bond in the amount of ten thousand dollars (\$10,000.00) shall be filed in favor of the city. Such bond must run throughout the licensing period and shall be conditioned upon the faithful compliance of all ordinances, rules or regulations of the city applicable to communications towers or wind energy systems.

C. Insurance; Assumption Of Liability: Any person licensed as a contractor must file proof of liability insurance in the amount of at least one million dollars (\$1,000,000.00) per person and per occurrence, and five hundred thousand dollars (\$500,000.00) for property damage with the city clerk and must agree, in writing on forms provided by the city clerk, to hold the city harmless from any and all damages claimed by reason of negligence, incompetence or omission on the part of the contractor in the performance of its work. (Ord. 487, 1-5-1998; Ord. 683, 3-16-2009; Ord. 712, 11-1-2010)

8-8-5: COMMUNICATIONS TOWER OR WIND ENERGY SYSTEM PERMIT:

No communications tower or wind energy system shall be placed in the city without a permit issued by the city.

A. Application: Application for a communications tower or wind energy system permit shall be made to the city clerk on forms provided by the city for that purpose.

B. Special Exception: No communications tower or wind energy system permit shall be issued until the proposed location of the tower or system has been approved by the grant of a special exception by the city board of adjustment pursuant to the provisions of

title 9 of this code.

C. Permit: A permit for the construction and maintenance of a communications tower or wind energy system shall be issued to the owner of the tower or system as specified in the application only upon compliance with all applicable ordinances of the city. The permit shall be of indefinite duration and shall remain in effect so long as the tower or system remains in compliance with all applicable city ordinances. A communications tower or wind energy system permit may be revoked by the city council upon notice to the owner and following opportunity for a hearing before the city council, for a violation of any applicable city ordinance, state statute or regulation, or federal statute or regulation.

The issuance of a permit under this section shall not relieve any permittee from compliance with all legal requirements, nor relieve the permittee of any liability for damage or loss resulting from the placement, construction or maintenance of the tower or system. The city assumes no liability whatsoever by virtue of the issuance of a communications tower or wind energy system permit.

The permit shall be maintained at the tower or system site.

D. Permit Fee: The fee for each permit issued under the provisions of this section shall be two hundred dollars (\$200.00). (Ord. 712, 11-1-2010)

8-8-6: COMMUNICATIONS TOWER REGULATIONS:

All communications towers located in the city shall be subject to the following regulations:

A. Engineer's Certification: Applications for a communications tower permit shall include detailed plans and specifications certified by an engineer. Upon completion of construction, the engineer shall further certify that the tower has been constructed in conformity with the plans and specifications.

B. Minimum Setback: The minimum distance from the base of the tower to the closest property line of the tower site shall not be less than sixty percent (60%) of the tower height.

C. Enclosure: The tower base shall be completely enclosed by a fence or wall six feet (6') in height designed, constructed and maintained to prevent unauthorized access to the tower.

D. EMF Emissions: All towers shall be maintained and operated in compliance with the standards adopted by the federal communications commission concerning electromagnetic field emissions.

E. Maximum Height: No tower shall exceed a height of two hundred feet (200'). (Ord. 487, 1-5-1998)

8-8-7: JOINT USE:

In order to avoid unnecessary duplication of communications towers in the city, businesses engaged in wireless communication requiring the use of communications towers are required to consider joint or multiple use of all existing and proposed towers. An application for a communications tower permit shall include a verification that the applicant has considered use of existing towers and shall include a detailed explanation establishing that the use of an existing tower is economically or technically not feasible.

Each owner of a tower placed and constructed pursuant to a permit issued under this chapter shall, to the extent technically feasible, lease tower capacity to other wireless communication providers at commercially reasonable rates and terms. (Ord. 487, 1-5-1998)

8-8-8: ABANDONED OR OBSOLETE TOWERS OR WIND ENERGY SYSTEMS:

Towers or wind energy systems which become abandoned or obsolete shall be removed within twelve (12) months of the discontinuance of use. (Ord. 712, 11-1-2010)

8-8-9: WIND ENERGY SYSTEM REGULATIONS:

All wind energy systems located in the city shall be subject to the following regulations:

A. Engineer's Certification: Applications for a wind energy system shall include detailed structural plans and specifications for the foundation, tower and mountings certified by a registered engineer.

B. Minimum Setback: The minimum setback from the base of a wind energy system tower to the closest property line of the system site shall be equal to the total height of the system tower.

C. Step Bolts Or Ladders: A wind energy system tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of ten feet (10') above the ground.

D. Electrical Wires: All electrical wire associated with a wind energy system, other than wire necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

E. Lighting: A wind tower and generator shall not be artificially lighted unless such lighting is required by the federal aviation administration.

F. Appearance, Color And Finish: A wind energy system shall remain the painted or finished color or finish that was originally applied by the manufacturer.

G. Tower Style: Monopole wind energy system towers are preferred, but the board of adjustment may approve towers of other styles if the necessity for another style is established.

H. Minimum Lot Size: The minimum size lot upon which a wind energy system may be placed is three (3) acres.

I. Shadow Flicker: No wind energy system shall be installed and operated so as to cause a shadow flicker to fall on any existing residential structure, except that of the owner of the system.

J. Controls: Each wind energy system shall be equipped with both an automatic and manual braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades or turbine

components, and there shall be a clearly marked and easily accessible shutoff for the wind turbine.

K. Electromagnetic Interference: All wind energy systems shall be designed and constructed so as not to cause radio or television interference. If it is determined that a system is causing electromagnetic interference, the owner shall take the necessary corrective action to eliminate this interference, including relocation or removal of the facilities, subject to the approval of the city.

L. Building Mounting Prohibited: No wind energy system tower or blades shall be affixed to a building or any other structure except a tower designed to support the equipment. (Ord. 712, 11-1-2010)

8-8-10: CERTIFIED WIND SITE ASSESSMENT:

An applicant for a permit to construct a wind energy system is strongly encouraged to have a site assessment performed by a certified wind site assessor. If not provided, the board of adjustment may require a system assessment be performed. (Ord. 712, 11-1-2010)

TITLE 9

ZONING REGULATIONS

CHAPTER 1

BASIC PROVISIONS

SECTION:

9-1-1: Short Title

9-1-2: Repeal And Saving Clause

9-1-3: Validity And Severability Clause

9-1-4: Conflict With Other Laws

9-1-5: Zoning Districts Map

9-1-6: Application Of Regulations

9-1-1: SHORT TITLE:

This title shall be known and may be cited as *THE CITY OF SPENCER ZONING ORDINANCE*. (Ord., 10-11-1990)

9-1-2: REPEAL AND SAVING CLAUSE:

The Spencer zoning ordinance, enacted September 4, 1945, is repealed. The repeal of said ordinance shall not release or relinquish any penalty, forfeiture or liability under said ordinance. (Ord., 10-11-1990)

9-1-3: VALIDITY AND SEVERABILITY CLAUSE:

If any court of competent jurisdiction shall declare any part of this title to be invalid, such ruling shall not affect any other provisions of this title not specifically included in said ruling.

If any court of competent jurisdiction shall declare invalid the application of any provisions of this title to a particular land, parcel, lot, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building or structure not specifically included in said ruling. (Ord., 10-11-1990)

9-1-4: CONFLICT WITH OTHER LAWS:

A. Where any condition imposed by any provision of this title upon the use of any lot, building or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this title or by the provision of an ordinance adopted under any other law, or by the provision of any statute, the provision which is more restrictive or which imposed a higher standard or requirement shall govern.

B. This title is not intended to abrogate or annul any easement, covenant or other private agreement; provided, that where any provision of this title is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provisions of this title shall govern. (Ord., 10-11-1990)

9-1-5: ZONING DISTRICTS MAP:

The council shall cause to be prepared and approved, an official zoning districts map showing the various districts, which may be changed or corrected from time to time as recommended by the planning and zoning commission and enacted by the council. The map shall be kept up to date by the building and zoning officer.

A. Official Map: The official zoning districts map shall be that zoning map on file in the offices of the city, so designated as "Spencer, Iowa official zoning map", and all references hereafter to said official map shall mean the map just referred to, said map by this reference being made a part of this zoning code.

B. Districts: The city shall divide the official zoning districts map of the city into districts or zones, as follows:

A residential district

B multiple residential district
B-1 bed and breakfast multiple residential district
CBD central business district
C-1 general commercial district
C-2 highway commercial district
F fair and exposition district
D light industrial district
E heavy industrial district
MH mobile home district
R riverfront district
Public water supply protection overlay district

C. Boundaries: The zones shall be indicated on the zoning districts map by different colors or shades, which also will show district boundaries.

D. Zoning Of Rights Of Way: All rights of way in the city of Spencer shall be included in the zoning district of the property adjacent to the right of way. The centerline of the right of way shall be the dividing line between different zoning districts. (Ord., 10-11-1990; 1991 Code; Ord. 518, 8-2-1999; Ord. 547, 6-4-2001; Ord. 575, 8-5-2002; Ord. 579, 1-6-2003; Ord. 723, 7-18-2011)

9-1-6: APPLICATION OF REGULATIONS:

No structures or building or part thereof shall be erected, constructed, reconstructed, remodeled, converted, altered, enlarged, extended, raised, moved, or used, and no land shall be used except in conformity with this title. (Ord., 10-11-1990)

CHAPTER 2

DEFINITIONS; USE CLASSIFICATIONS

SECTION:

9-2-1: Definitions

9-2-2: Use Classifications

9-2-1: DEFINITIONS:

For the purpose of interpreting this title, certain words, terms and expressions are herein defined. Words used in the present tense include the future; the singular includes the plural and the plural the singular; the word "may" is discretionary and the word "shall" is mandatory.

ACCESSORY VEHICLE: Includes the following:

- A. A self-propelled vehicle designed or used for temporary dwelling, recreational or sporting purposes, excluding motorcycles.
- B. A vehicle designed to be towed (typically described as a "trailer").
- C. A watercraft.
- D. A snowmobile.
- E. A golf cart.
- F. An all-terrain vehicle.
- G. The term "accessory vehicle" includes: travel trailers, camping trailers, motor homes, converted trucks and buses, boats and boat trailers, snowmobile and motorcycle trailers, and general purpose trailers (open or enclosed). The term "accessory vehicle" does not include a self-propelled motor vehicle regularly used for family or commercial transportation purposes.
- H. An "accessory vehicle" not exceeding twenty two feet (22') in length, excluding that portion of the tongue and hitch of a towed vehicle which extends from the main body, platform or frame, is a "class I" accessory vehicle. Accessory vehicles more than twenty two feet (22') in length are "class II" accessory vehicles.

In determining the length of an "accessory vehicle", the entire length of the vehicle, including all component parts, attachments and accessories, but excluding only that portion of the tongue and hitch of a towed vehicle which extends from the main body, platform or frame, shall be included in determining the length.

ADDITION: Any construction which increases the site coverage, height, length, width or floor area of a structure.

ALLEY: A public thoroughfare not more than thirty feet (30') in width, for the use of vehicles, which has been dedicated or deeded to the public for its use.

ALTERATION: Any change in the supporting members of a building, such as bearing walls, partitions, columns, beams or girders.

ATTACHED: Having one or more walls in common with a principal building, or adjoined to a principal building by an aboveground covered porch or passageway.

ATTIC: A space under a gable, hip or gambrel or other roof, the finished floor of which is or would be at or entirely above the level of the wall plates of at least two (2) exterior walls, and the height of which, from the floor level to the highest point of the roof, does not exceed ten feet (10').

BASEMENT: A story partly underground but having at least one-half ($\frac{1}{2}$) of its height above the curb level, and also one-half ($\frac{1}{2}$) of its height above the highest level of the adjoining ground, with a floor to ceiling dimension of at least six and one-half feet ($6\frac{1}{2}$). A basement shall be counted as a story under the provisions of this title.

BOARDING OR LODGING HOUSE: A building, other than a hotel, where meals are regularly served or lodging furnished for compensation to more than three (3) persons not related by blood or marriage of the family residing therein.

BUILDING: A structure having a roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels. When separated by division walls from the ground up without openings, each portion of such structure shall be deemed a separate building.

BUILDING, ACCESSORY: A building which is subordinate to the main building on the lot, not attached thereto and used for purposes customarily incidental to those of the main building. Private garages are accessory buildings.

BUILDING, HEIGHT OF: The perpendicular distance measured in a straight line from the curb level to the highest point of the roof. Where a building is situated on ground above the curb level or where no curb grade is established, such height shall be measured from the level of the adjoining ground at the middle of the front wall.

BUILDING LINE: The setback distance from the front property line, rear lot line, and side lot lines as provided in this title.

BUILDING WALL: The wall of a building forming a part of the main structure. The foundation walls of unenclosed porches, steps, walks and retaining wall or similar structures, shall not be considered as building walls under the provisions of this title.

BUSH: See definition of Shrub.

CELLAR: A story having more than one-half ($\frac{1}{2}$) of its height below the curb level, or below the highest level of the adjoining ground with a floor to ceiling dimension of at least six and one-half feet ($6\frac{1}{2}$). A cellar shall not be considered as a story for the purpose of this title.

COMMUNICATIONS TOWERS: An independent structure of a height more than thirty five feet (35') above ground level used for transmitting or receiving wireless communications.

CURB LEVEL: The established curb grade adjacent to a lot.

DETACHED: Fully separated from any other structure; not attached.

DRIVE-IN SERVICE: A feature or characteristic of a use involving sale of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services such as mechanical automobile washing.

DRIVEWAY: An area providing vehicular access between a street and an off street parking or loading area.

DWELLING: Any building or portion thereof which is designed or used primarily for residential purposes but not including a tent or trailer.

DWELLING, MULTI-FAMILY: An apartment house or dwelling used or intended to be used or occupied as the residence of three (3) or more families or housekeeping units living independently of each other.

DWELLING, SINGLE-FAMILY: A detached building that is arranged, designed or intended to be occupied as the residence of a single family and having no party wall in common with an adjacent building.

DWELLING, TWO-FAMILY: A detached building that is arranged, designed or intended to be occupied as the residence of two (2) families or housekeeping units living independently of each other.

ENCLOSURE: For purposes of this code, the terms "enclosure", "enclosed structure", and "permanently enclosed structure" shall mean a building constructed of wood, masonry, metal, fiberglass or glass components connected or fastened so as to create a rigid structure with no openings, except functional doors and windows which can be closed to create a building with no openings. A structure which incorporates a tarp, canvas or other flexible material to cover an otherwise open space is not an "enclosure".

FAMILY: A group of individuals living and cooking together on the premises as one housekeeping unit, but a family shall not include more than three (3) individuals not related by blood or marriage.

FAMILY HOME: For the purposes of this title, as defined in section 414.22(2)(c) of the code of Iowa.

FENCE: An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

GARAGE, PRIVATE: An accessory building or portion of a building in which one or more motor vehicles are housed, but in which no business services or industry connected with the motor vehicles is carried on other than leasing of space.

HEDGE: A linear growth of woody plant(s) planted to form a barrier to enclose or screen areas of land.

HOME OCCUPATION: A business or occupation use conducted in a residential zone, which use is incidental and secondary to the residential use and which complies with the provisions of section 9-11-8 of this title.

LOADING SPACE: An area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

LOT: A parcel of land under common ownership having its frontage upon one or more streets or on an officially approved place.

LOT AREA: The net horizontal area within bounding lot lines, but excluding any portion of a flag (panhandle) lot providing access to a street and excluding any public or private easement or right of way providing access to another lot.

LOT COVERAGE OR BUILDING COVERAGE: The area of a lot covered by buildings or ground level paving, but excluding incidental projecting eaves, balconies, and similar features and excluding landscaping and open recreational facilities.

LOT DEPTH: The distance from the front lot line to the rear lot line. In the case of a lot of irregular shape, the mean depth shall be the lot depth.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE, FRONT: In the case of an interior lot abutting on only one street, the front lot line is the street line of such street. In the case of a through lot, it may be such street line as is selected by the owner as the front lot line for the purposes of this title. In the case of a corner lot with frontage on two (2) or more public streets, the front lot line shall be the lot line so designated by the owner.

LOT LINE, REAR: That boundary line which is opposite and most distant from the front lot line.

LOT LINE, SIDE: Any boundary line not a front line or a rear lot line.

LOT WIDTH: The distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.

MOBILE HOME: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle.

MOBILE HOME PARK: Any site, lot, field or tract of land upon which two (2) or more occupied mobile homes are situated, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

MOBILE HOME SPACE: An area within a mobile home park which is designed for and designated as the location for a single mobile home and the exclusive use of its occupants.

MODULAR HOME: A factory built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

NONCONFORMING USE: A lawful use of any land, building or structure, other than a sign, that does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

PARKING FACILITY: An area on a lot or within a building, or both, including one or more parking spaces together with driveways, aisles, turning and maneuvering areas, clearances, and similar features, and meeting the requirements established by this title. The term parking facility shall include parking lots, garages, and parking structures.

PARKING SPACE: An area on a lot or within a building, used or intended for use for parking of a motor vehicle, having permanent means of access to and from a public street or alley independently of any other parking space, and located in a parking facility meeting the requirements established by this title. The term parking space is equivalent to the term "parking stall" and does not include driveways, aisles, or other features comprising a parking facility.

PORCH, OPEN: A roofed structure, open on two (2) or more sides, projecting from the front, side or rear wall of the building.

PUBLIC NOTICE: The publication of the time and place of any public hearing not less than seven (7) days prior to the date of said hearing in one newspaper of general circulation in the city.

PUBLIC WAY: An open or unoccupied public space more than thirty feet (30') in width which is permanently reserved for the purpose of access to abutting property.

RESIDENTIAL CONVENIENCE SERVICE: A use or activity of a commercial nature conducted as an accessory use to multiple-family residential or mobile home park residential use, and intended solely for the convenience of residents thereof.

SETBACK LINE: A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and governing the placement of structures and uses on the lot.

SEXUALLY ORIENTED BUSINESS:

A. Sexually Oriented Book Or Video Store: An establishment having as a significant portion of its stock in trade books, films, videotapes, magazines and other periodicals which are distinguished or characterized by an emphasis on matter depicting or describing "sex act(s)" or "specified anatomical areas".

B. Sexually Oriented Motel: A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "sex act(s)" or "specified anatomical areas".

C. Sexually Oriented Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing "sex act(s)" or "specified anatomical areas".

D. Sexually Oriented Motion Picture Theater: An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing "sex act(s)" or "specified anatomical areas" for observation by patrons therein.

E. Sexually Oriented Cabaret: Any establishment at which live entertainment involving "sex act(s)" or the exposure of "specified anatomical areas" is provided.

F. Sex Act(s) And Specified Anatomical Areas: For purposes of the above, the terms "sex act(s)" and "specified anatomical areas" shall mean as follows:

1. Sex Act(s): Any sexual contact, actual or simulated, either natural or deviate, between two (2) or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person, or by use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

2. Specified Anatomical Areas: Include the following: human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.

SHRUB: A woody plant, grown for decorative, screening or enclosure purposes. The definitions of a "shrub" and a "bush" shall be the same and are interchangeable.

SITE PLAN: A plan, prepared to scale, showing accurately and with complete dimensions, all of the buildings, structures and uses, and principal site development features, including parking, access, and landscaping and screening, proposed for a specific parcel of land.

STORY: That part of any building comprised between any floor and the floor or attic next above; the first story of a building is the lowest story having at least one-half ($\frac{1}{2}$) of its height above the highest level of adjoining ground.

STREET, FRONT: The street or public place upon which a lot abuts. If a lot abuts upon more than one street or public place it shall mean the street designated as the front street in the owner's application for a building permit.

STREET LINE: The dividing line between a lot and a public street, alley or place.

STREET, PUBLIC: A public thoroughfare more than thirty feet (30') in width.

STREET WALL: The wall of the building nearest the street under consideration.

STRUCTURE: That which is built or constructed and composed of parts joined together in a definite manner. Grade level concrete paving shall not be classified as being a structure.

SUBSTANDARD LOT: A lot of record that does not comply with currently applicable minimum area, width, or depth requirements for the district in which it is located, but which complied with applicable requirements when it was placed on record.

TOWNHOUSE: A dwelling unit having a common wall with or abutting one or more adjoining dwelling units in a townhouse group.

TOWNHOUSE GROUP: Two (2) or more contiguous townhouses having common or abutting walls.

TREE: A woody growth with an expected height in excess of six feet (6').

USE: The conduct of an activity, or the performance of a function or operation, on a site or in a structure.

A. Accessory Use: A use or activity which is incidental to and customarily associated with a specific principal use on the same site.

B. Principal Use: A use which is a primary function of a lot or structure.

C. Permitted Use: A use defined by section 9-11-2 of this title and listed by the regulations for any particular district as a permitted use within that zone, and permitted therein as a matter of right when conducted in accordance with the regulations established by this title.

D. Special Exception Use: A use defined by section 9-11-2 of this title and listed by the regulations for any particular district as a special exception use within that district and allowable therein, solely on a discretionary and conditional basis subject to a special exception use permit and to all other regulations established by this title.

VALUATION: The one hundred percent (100%) valuation of a building or structure, as determined by the Clay County assessor.

WIND ENERGY SYSTEM: Equipment that converts and then stores or transfers energy from wind into usable forms of energy, including any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components.

YARD, FRONT SETBACK: The required space, unobstructed to the sky, open for the whole width of the lot extending from the nearest part of any building of the lot to the front lot line excluding cornices, eaves, gutters or chimneys projecting not more than thirty inches (30"), steps, bay window or similar features not extending through more than one story and which do not aggregate more than one-third ($\frac{1}{3}$) of the width of the frontage of the building, and vestibules not more than one story in height and extending not more than three feet (3') beyond the front wall of the principal building.

YARD, REAR SETBACK: The required open space, unobstructed to the sky, extending along the rear lot line (not street line), throughout the whole width of the lot to the rear of the principal building. Cornices, eaves, gutters or chimneys may project not more than thirty inches (30") into the required rear yard. Uncovered steps or open porches not more than one story in height and eight feet (8') in width may extend not more than twelve feet (12') into the required rear yard.

YARD, SIDE SETBACK: The required open space, unobstructed to the sky, extending along the side lot line from the front yard to

the rear yard, excluding cornices, eaves, gutters, chimneys, bay windows or similar features which project into the side yard not more than thirty inches (30").

ZERO LOT LINE: The location of buildings on lots such that one or more of the building's sides shares a common wall with an adjoining building. (Ord., 10-11-1990; Ord. 407, 1-20-1992; Ord. 422, 8-17-1992; Ord. 487, 1-5-1998; Ord. 540, 12-18-2000; Ord. 573, 7-15-2002; Ord. 581, 2-17-2003; Ord. 642, 1-16-2006; Ord. 654, 4-16-2007; Ord. 712, 11-1-2010; Ord. 722, 7-18-2011; Ord. 851, 10-7-2019)

9-2-2: USE CLASSIFICATIONS:

The purpose of the use classifications shall be to provide a consistent set of terms encompassing and defining uses permitted or specifically permitted in the various districts, and to provide a procedure for determination of the applicable use classification of any activity not clearly within any defined use classification.

In the event of any question as to the appropriate use classification of any existing or proposed use or activity, the building and zoning officer **1** shall have the authorization to determine the appropriate classification, subject to the right of appeal pursuant to chapter 12 of this title. In making such determination, the building and zoning officer shall consider the characteristics of the particular use in question, and shall consider any functional, product, service, or physical facility requirements common with or similar to uses cited as examples of use classifications.

A. General Description Of Residential Use Types: Residential use types include the occupancy of living accommodations on a wholly or primarily nontransient basis, but exclude institutional living arrangements involving those providing twenty four (24) hour skilled nursing or medical care and those providing forced residence, such as asylums and prisons.

1. **Single-Family Residential:** The use of a site for only one dwelling unit.
2. **Duplex Residential:** The use of a site for two (2) dwelling units within a single building.
3. **Two-Family Residential:** The use of a site for two (2) dwelling units, each in a separate building.
4. **Townhouse Residential:** The use of a site for three (3) or more townhouse dwelling units, constructed with common or adjacent walls and each located on a separate ground parcel within the total development site, together with common area serving all dwelling units.
5. **Multiple-Family Residential:** The use of a site for three (3) or more dwelling units, within one or more buildings.
6. **Group Residential And Assisted Elderly Housing:**
 - a. **Group Residential:** The residential occupancy of living accommodations by groups of more than five (5) persons not defined as a "family" on a weekly or longer basis. Typical uses include occupancy of fraternity or sorority houses, dormitories, residence halls, or boarding houses.
 - b. **Assisted Elderly Housing:** A specific type of group residential housing; private, or private nonprofit, elderly housing comprised of individual studio, one bedroom, and two (2) bedroom dwelling units for residents over the age of fifty five (55). On site services and facilities such as meals, cleaning, laundry, recreation, fitness, transportation, and social activities are normally an integral part of the development. Medical services may be offered, but no long term hospital or nursing home care is provided within the assisted elderly housing development.
7. **Mobile Home Residential:** The residential occupancy of mobile homes by families on a weekly or longer basis. Uses only include mobile home parks or mobile home subdivisions.

B. General Description Of Commercial Use Types: Commercial use types include the sale, rental, service, and distribution of goods; and the provision of services other than those classified as industrial or civic uses.

1. **Administrative And Business Offices:** Offices of private firms or organizations which are primarily used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.
2. **Agricultural Sales And Services:** Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include: nurseries, hay, feed or grain stores and tree service firms.
3. **Animal Husbandry, Limited:** The raising of the usual farm animals (excluding swine), either for reproductive stock or for slaughter.
4. **Automotive And Equipment Services:** Establishments or places of business primarily engaged in automotive related or equipment sales or services. The following are automotive and equipment use types:
 - a. **Automotive Washing:** Washing and cleaning of automobiles and related light equipment. Typical uses include auto laundries or car washes.
 - b. **Service Station:** Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles.
 - c. **Commercial Off Street Parking:** Parking of motor vehicles on a temporary basis within a privately owned off street parking facility, other than accessory to a principal use. Typical uses include commercial parking lots or parking garages.
 - d. **Automotive Rentals:** Rental of automobiles, noncommercial trucks, trailers, and recreational vehicles, including incidental parking and servicing of vehicles available for rent or lease. Typical uses include auto rental agencies, trailer rental agencies and taxi parking and dispatching.

e. Automotive Sales: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new or used car dealerships, motorcycle dealerships and boat, trailer and recreational vehicle dealerships.

f. Equipment Sales: Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

g. Automotive Repair Services: Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include new and used car dealerships, motorcycle dealerships; and boat, trailer and recreational vehicle dealerships.

h. Equipment Repair Services: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but excluding dismantling or salvage.

i. Vehicle Storage: Long term storage of operational or nonoperational vehicles. Typical uses include storage of private parking tow aways or impound yards, but exclude dismantling or salvage.

5. Building Maintenance Services: Establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.

6. Business Support Services: Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but exclude automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.

7. Business Or Trade School: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college, or university, or public or private educational facility.

8. Cocktail Lounge: A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses.

9. Commercial Recreation: Establishments or places primarily engaged in the provision of sports, entertainment or recreation for participants or spectators. The following are commercial recreation use types:

a. Indoor Sports And Recreation: Uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, and penny arcades.

b. Outdoor Sports And Recreation: Uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, and racquetball courts.

c. Indoor Entertainment: Predominately spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls and dance halls.

d. Outdoor Entertainment: Predominately spectator uses conducted in open facilities. Typical uses include sports arenas, racing facilities, and amusement parks.

10. Communication Services: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as major utility facilities. Typical uses include television studios, telecommunication service centers or telegraph service offices.

11. Construction Sales And Services: Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale, from the premises, of materials used in the construction of buildings or other structures other than retail sales of paint, fixtures and hardware; but excludes those classified as one of the automotive and equipment service use types. Typical uses include building materials stores, tool and equipment rental or sales, or building contractors.

a. Building Contractor Facility: An establishment or place of business involving one or more of the building trades, including shops, offices, storage of tools, materials, equipment and vehicle storage areas within enclosed structures. No equipment or materials associated with the building contractor facility shall be displayed or stored where visible from anywhere off the premises. Typical uses include: electricians, plumbers, heating and air conditioning contractors, plasterers, painters, carpenters, floor covering and tile installers.

12. Consumer Repair Services: Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding automotive and equipment use types. Typical uses include appliance repair shops, watch or jewelry repair, or musical instrument repair firms.

13. Convenience Storage: Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include miniwarehousing.

14. Convenience Store: An establishment engaged in the retail sale of food and household products, including gasoline. However, the repair, storage or servicing of vehicles shall not be permitted.

15. Financial Services: Establishments primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, loan and lending activities, and similar services.

16. Food Sales: Establishments or places of business primarily engaged in the retail sale of food or household products for

home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

17. Funeral Services: Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

18. General Retail Sales: Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in this section inclusive. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products, drugs, cards and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation).

19. Kennels: Boarding and care services for dogs, cats and similar small animals. Typical uses include boarding kennels, pet motels, or dog training centers.

20. Laundry Services: Establishments primarily engaged in the provision of laundering or dyeing services other than those classified as personal services. Typical use types include bulk laundry and cleaning plants, diaper services, or linen supply services.

21. Liquor Sales: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales for off site consumption.

22. Medical Offices: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the state of Iowa.

23. Parking Facility: An area on a lot or within a building, or both, including one or more parking spaces together with driveways, aisles, turning and maneuvering areas, clearances, and similar features, and meeting the requirements established by this chapter. The term "parking facility" shall include parking lots, garages and parking structures.

24. Personal Improvement Services: Establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

25. Personal Services: Establishments primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops, seamstress, tailor, shoe repair shops, self-service laundry, apparel cleaning or dry cleaning services.

26. Pet Services: Retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, or pet grooming shops.

27. Professional Office: A use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.

28. Research Services: Activities engaged in investigation in the natural, physical, or social sciences including design, engineering, product development and product testing, which may involve animals or human subjects under controlled conditions.

29. Restaurant (Convenience): A use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages, for on premises consumption. Typical uses include soda fountains, ice cream parlors, sandwich shops, cafes and coffee shops.

30. Restaurants:

a. Restaurant (General): A use engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty percent (50%) of the gross income. A general restaurant may include live entertainment. Typical uses include restaurants, coffee shops, dinner houses and similar establishments with incidental alcoholic beverage service.

b. Restaurant (Limited): A use engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty percent (50%) of the gross restaurant income. Such use shall not incorporate seating for more than thirty (30) patrons, shall not be open to the public more than five (5) hours per day, shall not be open to the public more than five (5) days in any calendar week, and shall not be open to the public after nine o'clock (9:00) P.M. No sign is permitted, except an identification sign not exceeding six (6) square feet in area.

31. Recycling Services: Activities by which discarded materials are collected, sorted, processed and converted into raw materials for use in the production of new products. The following are recycling services use types:

a. Can And Bottle Redemption Center: An Iowa department of natural resources (IDNR) approved redemption center that receives from individuals carbonated and alcoholic drink containers for the purpose of returning them to their original distributors.

b. Cathode Ray Tube (CRT) Collection Facility: The site where ongoing CRT collection is the only CRT recycling activity performed.

c. Cathode Ray Tube (CRT) Recycling Facility: Any process by which discarded CRTs of electronic materials that would otherwise become waste are processed and returned to use in the form of raw materials or products. CRT recycling includes, but is not limited to, CRT demanufacturing, CRT processing and CRT refurbishing.

d. Construction And Demolition Debris Recycling Facility: A site used to sort, process and store materials generated as the result of construction activity, building demolition and the repair or renovation of structures, but excluding tree and other yard waste.

e. Discarded Appliance Demanufacturing: The removal of components from discarded appliances, including, but not limited to, PCB containing capacitors, ballasts, mercury containing components, fluorescent tubes and refrigerants.

f. Materials Recovery Facility (MRF): A facility that receives materials other than those described in other recycling services use types for recycling. The MRF separates, removes contamination, sorts, densifies and stores recyclable materials. Each material is prepared to meet the requirements of a specific market. MRFs are generally considered to be handlers of materials. Typical materials recycled at an MRF are paper and plastic.

g. Waste Tire Storage And Processing Facility: A site covered by a permit issued by the IDNR that is used for the processing of waste tires.

h. Scrap And Salvage Facility: A facility primarily engaged in the storage, sale, dismantling or other processing of used or waste metals that are not intended for reuse in their original forms. Typical uses include automotive wrecking yards and junkyards.

32. Veterinary Services: Veterinary services for animals. Typical uses include pet clinics, dog and cat hospitals, and veterinary hospitals.

33. Visitor Habitation: Establishments primarily engaged in the provision of lodging services on a less than weekly basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are visitor habitation use types:

a. Campground: Campground facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents. Typical uses include recreational vehicle parks.

b. Hotel/Motel: Lodging services involving the provision of room and/or board. Typical uses include hotels, motels or transient boarding houses.

c. Bed And Breakfast Facility: An establishment offering limited visitor habitation, which meets the following requirements: owner/occupied, no more than six (6) guestrooms, food and beverage to be provided to guests only, lodging periods not to exceed seven (7) consecutive days, with two (2) off street parking spaces provided for each guestroom. No signs are permitted, except an identification sign not exceeding six (6) square feet in area.

34. Sexually Oriented Business: Sexually oriented book or video stores, motels, motion picture arcades, motion picture theaters, or cabarets.

35. Food Processing: Activities involving the processing of animal or vegetable food substances to a finished product suitable for wholesale or retail sales in compliance with the following criteria:

a. Gross production floor area (excluding offices, restrooms, locker rooms, maintenance and storage areas of the facility) shall not exceed fifty thousand (50,000) square feet.

b. The number of production employees (excluding clerical, management, maintenance and other nonproduction employees) shall not exceed three hundred (300) per day for all shifts.

c. No noticeable noise or offensive odor shall be emitted from the property.

The board of adjustment may require an applicant for a special exception use permit for a "food processing" facility to provide to the board a written certification by a registered engineer that the equipment, processes, procedures and operating methods to be used in the facility incorporate the maximum achievable control technology (MACT) to accomplish the elimination or maximum achievable reduction of odor emissions from the facility.

d. No activities involving the processing or manufacture of sauerkraut, fish products, gelatin, meat byproducts not for human consumption, vinegar, chemicals or yeast shall be permitted. The processing or manufacture of starch, dextrin, glucose, sugar or similar substances shall not be permitted, but these substances may be used in permitted processing or manufacturing.

e. No open or external storage shall be permitted; all food processing shall be accomplished within an enclosed facility.

f. No slaughtering, rendering, refining or distilling of animal, dairy or vegetable products shall be permitted, but animal, dairy or vegetable products may be otherwise processed and packaged.

g. Reserved.

h. No "food processing" use shall be permitted within three hundred feet (300') of the boundary of any residential zoning district.

36. Artists' School: A use providing education, training, internship or apprenticeship in the design, creation, distribution and marketing of objects of physical art. Such use may include artists' studios, sales galleries and living quarters.

37. Microbrewery, Micro-winery or Micro-distillery: A facility for the production, packaging and distribution of alcoholic beverages including but not limited to beers, ales, malt beverages, wines, or spirituous liquors for retail or wholesale purposes, on or off premises, with a capacity of not more than 10,000 barrels per year. This definition shall also include, but not limited to, uses considered a brewpub, craft brewery, or taproom. For purposes of a micro-distillery, including but not limited to craft distillery or native distillery, such establishments shall be defined as not producing more than 100,000 proof gallons per year in accordance with the Iowa Alcoholic Beverages Division. Such establishment may include other accessory uses such as a tasting room, restaurant, bar, or live entertainment as otherwise permitted in the Spencer City Code.

38. Brewery, Winery or Distillery: A place where beer, wine, liquors or other alcoholic beverages are commercially produced, distilled, packaged, and distributed for primarily off-site consumption. Such commercial/industrial establishments or manufacturing facilities will have a capacity in excess of 10,000 barrels per year; or in the case of distilleries shall have a capacity in excess of 100,000 proof gallons per year in accordance with the Iowa Alcoholic Beverages Division. Accessory uses such as a tasting room,

gift shop, café, or other ancillary uses may be included as part of the primary production related facilities.

C. General Description Of Industrial Use Types: Industrial use types include the on site extraction or production of goods by nonagricultural methods, and storage and distribution of products.

1. Basic Industry: A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions.

2. Custom Manufacturing: Activities involving the manufacture, assembly, or processing of materials or products in compliance with the following criteria:

- a. Gross production floor area (excluding offices, restrooms, locker rooms, maintenance areas and storage areas of the facility) shall not exceed fifteen thousand (15,000) square feet.
- b. The number of production employees (excluding clerical, management, maintenance and other nonproduction employees) shall not exceed seventy five (75) per enterprise per day for all shifts combined.
- c. No sanitary waste of greater strength than normal domestic wastewater shall be produced.
- d. No individual unit of mechanical equipment in excess of one hundred (100) horsepower shall be used in production.
- e. No noticeable noise, odor or air pollution shall be generated.
- f. No activities involving the processing of sauerkraut, fish products, gelatin, meat byproducts not for human consumption, starch, dextrin, glucose, sugar, vinegar, chemicals or yeast shall be permitted.
- g. No open or external storage shall be permitted; all custom manufacturing shall be accomplished in enclosed facilities.
- h. No rendering, smoking, cooking, refining, or distilling of animal, dairy or vegetable products shall be permitted.
- i. Not more than two (2) custom manufacturing enterprises shall be permitted on one lot.

3. Light Manufacturing: A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

4. Resource Extraction: A use involving the on site extraction of surface mineral products or natural resources. Typical extractive uses are quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

5. Stockyards: Stockyard services involving the temporary keeping of livestock for slaughter, market or shipping. Typical uses include stockyards or animal sales and auction yards.

6. Warehousing And Distribution: Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants. The following are wholesaling, storage and distribution types:

- a. Limited Warehousing And Distribution: Wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses or moving and storage firms.
- b. General Warehousing And Distribution: Open air storage, distribution and handling of materials and equipment. Typical uses include monument or stone yards, grain elevators or open storage yards.

7. Major Food Processing: Activities involving the processing of fowl as an edible product suitable for wholesale or retail sales in compliance with the following criteria:

- a. The normal operation of the facility shall not generate objectionable noise or odor beyond the boundaries of the property on which the use is located. A proposed major food processing operation shall be considered a potential significant odor generator and shall be subject to the requirements of title 4, chapter 7 of this code.
- b. No activities involving the processing or manufacture of sauerkraut, fish products, gelatin, vinegar, chemicals or yeast shall be permitted. The primary use shall not be rendering or production of inedible product. The processing or manufacture of starch, dextrin, glucose, sugar or similar substances shall not be permitted, but these substances may be used in permitted processing.
- c. No open or external storage shall be permitted; all food processing shall be accomplished within an enclosed facility.
- d. Before a zoning compliance permit for a major food processing use is issued, the applicant shall comply with all applicable provisions of title 4, chapter 4, "Sewer Regulations", of this code, including pretreatment, flow and strength measurement, and an appropriate industrial agreement.

D. General Description Of Civic Use Types: Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with public or social importance.

1. Administrative Services: Offices, administrative, clerical or public contact services that deal directly with the citizens, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county or municipal offices.

2. Aviation Facilities: Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

3. Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including

columbariums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

4. Club Or Lodge: A use providing meeting, recreational, or social facilities for a private or nonprofit association, primarily for use by members and guests. Typical uses include private social clubs and fraternal organizations.

5. College And University Facilities: An educational institution of higher learning which offers course study designed to culminate in the issuance of a degree.

6. Community Recreation: A recreational facility for use by residents and guests of a particular residential development, planned unit development or limited residential neighborhood, including both indoor and outdoor facilities.

7. Convalescent Services: A use providing bed care and inpatient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services, and excluding a facility providing care of alcoholism, drug addiction, mental disease, or communicable disease.

8. Cultural Services: A library, museum, art gallery, or similar nonprofit use affording display, preservation and exhibition of objects of permanent interest in one or more of the arts and sciences.

9. Daycare Services (Limited): A facility or use of a building or a portion thereof, for the care of six (6) or fewer individuals, not including members of the family regularly residing at the facility. This term includes nursery schools, preschools, daycare centers for children or adults, and similar uses.

10. Daycare Services (General): A facility, or use of a dwelling unit or portion thereof, for the care of seven (7) or more individuals. This term includes nursery schools, preschools, daycare centers for children or adults, and similar uses.

11. Detention Facilities: A publicly operated use providing housing and care for individuals confined by law.

12. Guidance Services: A use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition, either on a residential or daytime care basis.

13. Hospital Services: A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an inpatient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.

14. Local Utility Services: Services which are necessary to support principal development and involve only minor structures such as lines, poles, transformers, control devices, meters, regulators, piping, and junction boxes which are necessary to support principal development.

15. Maintenance And Service Facilities: A facility supporting maintenance, repair, vehicular or equipment servicing, materials storage, and similar activities, including corporation yards, equipment service centers, and similar uses having characteristics of commercial services, or contracting or industrial activities.

16. Major Utility Facilities: Generating plants, electrical switching facilities, primary substations, primary electric transmission lines, refuse collection or disposal facilities, water and wastewater treatment plants, and similar facilities of public agencies or public utility firms having potentially significant impact upon surrounding uses.

17. Military Installations: Military facilities of the federal or state governments.

18. Park And Recreation Services: Publicly owned and operated parks, playgrounds, recreation areas or open spaces.

19. Parking Facility: An area on a lot or within a building, or both, including one or more parking spaces together with driveways, aisles, turning and maneuvering areas, clearance, and similar features, and meeting the requirements established by this chapter. The term "parking facility" shall include parking lots, garages and parking structures.

20. Postal Facilities: Postal services, including post offices, bulk mail processing or sorting centers, operated by the United States postal service.

21. Primary Educational Facilities: A public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools in the state.

22. Public Assembly: Publicly owned and operated facilities for major public assembly, recreation, sports, amusement or entertainment, including civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, and exhibition facilities.

23. Railroad Facilities: Railroad yards, equipment servicing facilities, and terminal facilities.

24. Religious Assembly: A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto, but excluding primary or secondary educational facilities.

25. Residential Care Services: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including overnight occupancy or care for extended periods of time.

26. Safety Services: Facilities for conduct of public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

27. Secondary Educational Facilities: A public, private, or parochial school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the state.

28. Transportation Terminals: A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation, including bus terminals, railroad depots, airport terminals, and public transit

facilities. (Ord., 10-11-1990; 1991 Code; Ord. 407, 1-20-1992; Ord. 463, 8-21-1995; Ord. 489, 2-2-1998; Ord. 540, 12-18-2000; Ord. 544, 3-19-2001; Ord. 579, 1-6-2003; Ord. 583, 4-7-2003; Ord. 643, 1-16-2006; Ord. 655, 6-4-2007; Ord. 727, 8-15-2011; Ord. 756, 9-16-2013; Ord. 763, 5-5-2014; Ord. 764, 6-2-2014; Ord. 780, 4-6-2015; Ord. 853, 10-4-2019)

Notes

1. See title 8, chapter 2 of this code.

CHAPTER 3

A RESIDENTIAL DISTRICT

SECTION:

9-3-1: Use Regulations

9-3-2: Special Exceptions

9-3-3: Development Regulations

9-3-1: USE REGULATIONS:

Within the A residential district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Residential uses:

Duplex residential.

Family home.

Single-family residential.

B. Civic uses:

Community recreation.

Daycare services (limited).

Local utility services.

Park and recreation services.

C. Other uses:

Home occupations. (Ord., 10-11-1990; Ord. 498, 7-13-1998; Ord. 642, 1-16-2006)

9-3-2: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the A residential district, subject to the approval of the board of adjustment:

A. Civic uses:

Daycare services (general).

Major utility facilities.

Parking facilities.

Primary educational facilities.

Religious assembly.

Secondary educational facilities.

B. Commercial uses:

Animal husbandry (limited).

Artists' school.

Parking facilities.

C. Residential uses:

Wind energy system. (Ord., 10-11-1990; 1991 Code; Ord. 489, 2-2-1998; Ord. 556, 9-4-2001; Ord. 643, 1-16-2006; Ord. 712, 11-1-2010)

9-3-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the A residential district shall be subject to the following regulations:

- A. Minimum Lot Area: Six thousand (6,000) square feet.
- B. Minimum Lot Width: Fifty feet (50').
- C. Maximum Height: Three (3) stories, or forty five feet (45').
- D. Front Yard Setback: Twenty five feet (25') except as provided below:

On residential properties abutting North Grand Avenue north of Eleventh Street (11th Street) and south of Eighteenth Street (18th Street), the front yard setback shall be seventy five feet (75').

- E. Side Yard Setback:

One-story: Six feet (6').

Two-story: Eight feet (8').

Three-story: Ten feet (10').

- F. Rear Yard Setback: Twenty feet (20').
- G. Maximum Lot Coverage: Seventy percent (70%). (Ord., 10-11-1990; Ord. 797, 3-21-2016)

CHAPTER 4

B MULTIPLE RESIDENTIAL DISTRICT

SECTION:

9-4-1: Use Regulations

9-4-2: Special Exceptions

9-4-3: Development Regulations

9-4-1: USE REGULATIONS:

Within the B multiple residential district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

- A. Residential uses:

Duplex residential.

Family home.

Group residential.

Multi-family residential.

Single-family residential.

Townhouse residential.

Two-family residential.

- B. Civic uses:

Community recreation.

Daycare services (limited).

Local utility services.

Parks and recreation services.

- C. Other uses:

Home occupations. (Ord., 10-11-1990; 1991 Code; Ord. 642, 1-16-2006)

9-4-2: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the B multiple residential district, subject to the approval of the board of adjustment:

- A. Civic uses:

Administrative services.

Cemeteries.

Cultural services.

Daycare services (general).

Major utility facilities.

Parking facilities.

Primary educational facilities.

Religious assembly.

Residential care services.

Secondary educational facilities.

B. Commercial uses:

Animal husbandry (limited).

Artists' school.

Bed and breakfast facility.

Parking facilities.

C. Residential uses:

Wind energy system. (Ord., 10-11-1990; 1991 Code; Ord. 489, 2-2-1998; Ord. 557, 9-4-2001; Ord. 643, 1-16-2006; Ord. 670, 8-4-2008; Ord. 712, 11-1-2010)

9-4-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the B multiple residential district shall be subject to the following regulations:

A. Minimum lot area: Five thousand (5,000) square feet.

B. Minimum lot width: Fifty feet (50').

C. Maximum height: Seventy five feet (75').

D. Front yard setback: Twenty five feet (25').

E. Side yard setback:

One-story: Six feet (6').

Two-story: Eight feet (8').

Three-story: Ten feet (10').

F. Rear yard setback: Twenty five feet (25').

G. Maximum ground coverage: Seventy percent (70%). (Ord., 10-11-1990)

CHAPTER 4A

B-1 BED AND BREAKFAST MULTIPLE RESIDENTIAL DISTRICT

SECTION:

9-4A-1: Use Regulations

9-4A-2: Special Exceptions

9-4A-3: Development Regulations

9-4A-1: USE REGULATIONS:

Within the B-1 bed and breakfast multiple residential district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Residential Uses:

Duplex residential.

Group residential.

High density multi-family residential.

Low density multi-family residential.

Single-family residential.

Townhouse residential.

Two-family residential.

B. Civic Uses:

Community recreation.

Daycare services (limited).

Local utility services.

Parks and recreation services.

C. Other Uses:

Home occupations. (Ord. 579, 1-6-2003)

9-4A-2: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the B-1 bed and breakfast multiple residential district, subject to the approval of the board of adjustment:

A. Civic Uses:

Administrative services.

Cemeteries.

Club or lodge.

Cultural services.

Daycare services (general).

Major utility facilities.

Parking facilities.

Primary educational facilities.

Religious assembly.

Residential care services.

Secondary educational facilities.

B. Commercial Uses:

Animal husbandry (limited).

Bed and breakfast facility.

Parking facilities.

Restaurant (limited). (Ord. 579, 1-6-2003)

9-4A-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the B-1 bed and breakfast multiple residential district shall be subject to the following regulations:

A. Minimum Lot Area: Five thousand (5,000) square feet.

B. Minimum Lot Width: Seventy five feet (75').

C. Maximum Height: Seventy five feet (75').

D. Front Yard Setback: Twenty five feet (25') except as provided below:

On residential properties abutting North Grand Avenue in the B-1 bed and breakfast zoning district, the front yard setback shall be seventy five feet (75').

E. Side Yard Setback:

One-story: Six feet (6').

Two-story: Eight feet (8').

Three-story: Ten feet (10').

F. Rear Yard Setback: Twenty five feet (25').

G. Maximum Ground Coverage: Seventy percent (70%). (Ord. 579, 1-6-2003; Ord. 797, 3-21-2016)

SECTION:

9-5-1: Use Regulations

9-5-2: Special Exceptions

9-5-3: Development Regulations

9-5-4: Minimum Requirements For Commercial Structures

9-5-1: USE REGULATIONS:

Within the CBD central business district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Commercial uses:

Administrative and business offices.

Building maintenance.

Business or trade school.

Business support services.

Can and bottle redemption center.

Cocktail lounge.

Commercial off street parking.

Communications services.

Consumer repair services.

Financial services.

Food sales.

General retail sales.

Hotel/motel.

Indoor entertainment.

Indoor sports and recreation.

Liquor sales.

Medical offices.

Microbrewery, micro-winery or micro-distillery.

Parking facility.

Personal improvement.

Personal services.

Pet services.

Professional offices.

Restaurants (general).

B. Industrial uses:

Custom manufacturing.

C. Civic uses:

Administrative services.

Club or lodge.

Cultural services.

Daycare services (general).

Daycare services (limited).

Local utility services.

Park and recreation services.

Parking facility.

Postal facilities.

Safety services. (Ord., 10-11-1990; 1991 Code; Ord. 655, 6-4-2007; Ord. 853, 10-4-2019)

9-5-2: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the CBD central business district subject to the approval of the board of adjustment:

A. Commercial uses:

Artists' school.

Automotive repair services.

Automotive sales.

Automotive washing.

Building contractor facility.

Cathode ray tube (CRT) collection facility.

Commercial off street parking.

Communications towers.

Convenience stores.

Discarded appliance demanufacturing.

Microbrewery.

Service stations.

B. Civic uses:

Communications towers.

Community recreation.

Maintenance and service facilities.

Major utility facilities.

Primary educational facilities.

Public assembly.

Religious assembly.

Secondary educational facilities.

Transportation terminals.

C. Residential uses:

Duplex residential.

Group residential.

Multi-family residential.

Townhouse residential.

D. Industrial uses:

Limited warehousing and distribution. (Ord., 10-11-1990; Ord. 487, 1-5-1998; Ord. 489, 2-2-1998; Ord. 496, 7-13-1998; Ord. 531, 7-5-2000; Ord. 600, 5-17-2004; Ord. 643, 1-16-2006; Ord. 655, 6-4-2007; Ord. 727, 8-15-2011; Ord. 764, 6-2-2014; Ord. 769, 8-18-2014; Ord. 776, 1-19-2015)

9-5-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the CBD central business district shall be subject to the following regulations:

A. Minimum lot area: Four thousand (4,000) square feet.

B. Minimum lot width: None.

C. Maximum height: Seventy five feet (75').

D. Front yard setback: None.

E. Side yard setback: None.

F. Rear yard setback: None.

G. Maximum lot coverage: One hundred percent (100%). (Ord., 10-11-1990)

9-5-4: MINIMUM REQUIREMENTS FOR COMMERCIAL STRUCTURES:

All structures intended for commercial use placed, erected, assembled or constructed in the central business zoning district shall meet and satisfy the following minimum requirements:

A. Foundation: All structures shall have a continuous and complete frost protected perimeter foundation.

Foundation materials may be masonry, poured concrete, or metal and must extend below the normal frost line. The structure must be permanently attached to the foundation.

B. Exterior Walls: A minimum of seventy five percent (75%) of all building walls, excluding door and window openings and side walls not visible from a public place or way, shall consist of brick, textured concrete block, stucco, natural or cultured stone, textured concrete, EIFS (exterior insulation and finish systems). No wood, masonite, asphaltic material, aluminum, vinyl or steel siding, or nontextured concrete block shall be an acceptable wall material to meet the requirements of this subsection.

All building walls, other than the front wall, which are constructed within ten feet (10') of a property boundary (lot line) and which are not adjacent to a public way at least sixteen feet (16') in width, shall have, at a minimum, a four (4) hour fire resistive capacity.

If any building, constructed after the effective date hereof, to which this subsection B applies, includes a side wall that did not comply with the material requirements of this subsection B because the side wall was not visible from a public place or way, and such side wall thereafter becomes visible because of the removal of an adjacent building, such side wall shall be finished in compliance with this subsection B by the property owner, within one year from the date of its exposure.

C. Front Wall Or Facade: All building walls facing a public street shall be rectangular or shall include a facade to give a rectangular appearance.

D. Loading, Container, Equipment Areas: Loading areas and solid waste or recycling container areas, outside storage areas and heating, ventilation and air conditioning mechanical equipment shall be located to the rear of the building, except that heating, ventilation and air conditioning mechanical equipment may be located on the roof of the building. If such area is adjacent to a public street or to the front of another building (separated only by a public right of way), the area shall be screened from view.

E. Stormwater Drainage: Stormwater drainage from the roof of the building shall be directed to the rear or side of the building and shall not be directed or discharged over any public sidewalk.

F. New Construction: The provisions of this section shall apply to all new construction accomplished after the effective date hereof. Whenever additions to existing buildings exceed fifty percent (50%) of the floor area of the existing building or one thousand (1,000) square feet, whichever is less, then the existing building to which the addition is made shall also comply with this section. (Ord. 542, 1-2-2001; Ord. 545, 3-19-2001)

CHAPTER 6

C-1 GENERAL COMMERCIAL DISTRICT

SECTION:

9-6-1: Use Regulations

9-6-2: Special Exceptions

9-6-3: Development Regulations

9-6-1: USE REGULATIONS:

Within the C-1 general commercial district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Residential uses:

Family home.

Group residential.

Multi-family residential.

B. Commercial uses:

Administrative and business offices.

Building maintenance services.

Business or trade school.

Business support services.

Commercial off street parking.

Communication services.

Consumer repair services.
Convenience storage.
Financial services.
Food sales.
Funeral services.
Indoor entertainment.
Laundry services.
Medical office.
Parking facility.
Personal improvement services.
Personal services.
Pet services.
Professional offices.

C. Civic uses:

Administrative services.
Club or lodge.
Cultural services.
Daycare services (general).
Daycare services (limited).
Local utility services.
Park and recreation services.
Parking facility.
Postal facilities.
Safety services. (Ord., 10-11-1990; 1991 Code; Ord. 642, 1-16-2006; Ord. 763, 5-5-2014)

9-6-2: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the C-1 general commercial district subject to the approval of the board of adjustment:

A. Commercial uses:

Artists' school.
Bed and breakfast facility.
Campground.
Communications towers.
Convenience store.
General retail sales.
Hotel/motel.
Indoor sports and recreation.
Outdoor entertainment.
Outdoor sports and recreation.
Restaurants (general).
Wind energy system.

B. Industrial uses:

None.

C. Civic uses:

Cemetery.

Communications towers.

Cultural services.

Detention facilities.

Guidance services.

Hospital services.

Major utility facilities.

Primary educational facilities.

Public assembly.

Religious assembly.

Residential care services.

Secondary educational facilities. (Ord., 10-11-1990; 1991 Code; Ord. 487, 1-5-1998; Ord. 489, 2-2-1998; Ord. 643, 1-16-2006; Ord. 670, 8-4-2008; Ord. 712, 11-1-2010)

9-6-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the C-1 general commercial district shall be subject to the following regulations:

- A. Minimum lot area: Six thousand (6,000) square feet.
- B. Minimum lot width: Fifty feet (50').
- C. Maximum height: Three (3) stories or forty five feet (45').
- D. Front yard setback: Twenty five feet (25').
- E. Side yard setback:

One-story: Six feet (6').

Two-story: Eight feet (8').

Three-story: Ten feet (10').

- F. Rear yard setback: Twenty five feet (25').
- G. Maximum lot coverage: Ninety percent (90%) including ground level paving. (Ord., 10-11-1990; 1991 Code)

CHAPTER 7

C-2 HIGHWAY COMMERCIAL DISTRICT

SECTION:

9-7-1: Use Regulations

9-7-2: Special Exceptions

9-7-3: Development Regulations

9-7-1: USE REGULATIONS:

Within the C-2 highway commercial district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

- A. Residential uses:

None.

- B. Civic uses:

Administrative services.

Club or lodge.

Community recreation.

Daycare services (limited).

Local utility services.

Maintenance and service facility.

Parking facilities.

Parks and recreation services.

Postal facilities.

Religious assembly.

Residential care services.

Transportation terminal.

C. Commercial uses:

Administrative and business offices.

Agricultural sales and services.

Automotive rentals.

Automotive repair services.

Automotive sales.

Automotive washing.

Building maintenance services.

Business or trade school.

Business support services.

Can and bottle redemption center.

Cocktail lounge.

Communication services.

Construction sales and services.

Consumer repair services.

Convenience storage.

Convenience stores.

Equipment repair services.

Equipment sales.

Financial services.

Food sales.

General retail sales.

Hotel/motel.

Indoor entertainment.

Indoor sports and recreation.

Laundry services.

Liquor sales.

Medical office.

Microbrewery, micro-winery or micro-distillery.

Parking facilities.

Personal improvement services.

Personal services.

Pet services.

Professional office.

Restaurant (convenience).

Restaurant (general).

Service station.

Vehicle storage.

D. Industrial uses:

Custom manufacturing.

Limited warehousing and distribution. (Ord., 10-11-1990; 1991 Code; Ord. 509, 1-18-1999; Ord. 627, 6-6-2005; Ord. 655, 6-4-2007; Ord. 763, 5-5-2014; Ord. 764, 6-2-2014; Ord. 853, 10-4-2019)

9-7-2: SPECIAL EXCEPTIONS:

The following may be permitted in the C-2 highway commercial district subject to the approval of the board of adjustment:

A. Residential uses:

Group residential.

Multi-family residential.

Wind energy system.

B. Civic uses:

Cemetery.

College or university facility.

Communications towers.

Convalescent services.

Cultural facility.

Daycare services (general).

Detention facility.

Hospital services.

Major utility facilities.

Military installations.

Primary educational facility.

Public assembly.

Railroad facility.

Safety services.

Secondary educational facility.

C. Commercial uses:

Animal husbandry (limited).

Artists' school.

Cathode ray tube (CRT) collection facility.

Communications towers.

Discarded appliance demanufacturing.

Food processing.

Kennels.

Outdoor entertainment.

Outdoor sports and recreation.

Research services.

Veterinary services. (Ord., 10-11-1990; 1991 Code; Ord. 487, 1-5-1998; Ord. 489, 2-2-1998; Ord. 583, 4-7-2003; Ord. 643, 1-16-2006; Ord. 650, 11-20-2006; Ord. 655, 6-4-2007; Ord. 712, 11-1-2010; Ord. 763, 5-5-2014)

9-7-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the C-2 highway commercial district shall be subject to the following regulations:

A. Minimum lot area: Ten thousand (10,000) square feet.

B. Minimum lot width: Eighty feet (80').

C. Maximum height: Seventy five feet (75'), except when located in an "airport clear zone".

D. Front yard setback: Fifty feet (50').

E. Side yard setback: Twelve feet (12') or ten percent (10%) of the lot width, whichever is greater, but not exceeding twenty feet

(20').

F. Rear yard setback: Fifteen feet (15').

G. Maximum ground coverage: Eighty percent (80%) including ground level paving. (Ord., 10-11-1990; Ord. 471, 8-5-1996)

CHAPTER 7A

F FAIR AND EXPOSITION DISTRICT

SECTION:

9-7A-1: Definitions

9-7A-2: Use Regulations

9-7A-3: Special Exceptions

9-7A-4: Development Regulations

9-7A-1: DEFINITIONS:

For purposes of this chapter, the following terms are defined:

EVENTS CENTER: An indoor facility used for public assembly, agricultural, automotive, equipment, general retail and food sales, restaurant, recreation, sports, amusement and entertainment.

FARMING: The cultivation, raising, harvesting, storing and marketing of grain, hay or straw, but not including breeding, feeding, raising or keeping of any livestock or animals.

LIVESTOCK SHOWS: Shows, demonstrations, sales, or competitions of all types of livestock and domestic animals. (Ord. 575, 8-5-2002)

9-7A-2: USE REGULATIONS:

Within the F fair and exposition district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Residential uses: None.

B. Commercial uses:

Agricultural demonstrations.

Agricultural sales and services.

Auction sales.

Automotive sales.

Business support services.

Carnival rides, games and activities.

Cocktail lounge.

Commercial off street parking.

Commercial recreation, including indoor sports and recreation, outdoor sports and recreation, and indoor entertainment.

Convenience storage.

Convenience stores.

Equipment sales.

Farming.

Food sales.

General retail sales.

Outdoor entertainment.

Parking facilities.

Restaurant (convenience).

Restaurant (general).

Vehicle, boat, implement, grain and miscellaneous equipment storage.

Visitor habitation - campground.

C. Industrial uses: None.

D. Civic uses:

Administrative offices (fair related).

Cultural services.

Events center.

Livestock shows.

Local utility services.

Maintenance and service facilities (fair related).

Parking facilities.

Postal facilities.

Public assembly. (Ord. 575, 8-5-2002)

9-7A-3: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the F fair and exposition district subject to the approval of the board of adjustment:

A. Residential uses:

Residences for employees.

Wind energy system.

B. Commercial uses:

Communications towers.

Dormitory.

Hotel/motel. (Ord. 575, 8-5-2002; Ord. 649, 11-20-2006; Ord. 712, 11-1-2010; Ord. 794, 12-21-2015)

9-7A-4: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the F fair and exposition district shall be subject to the following regulations:

A. Minimum lot area: Five (5) acres.

B. Maximum height: One hundred twenty feet (120').

C. Front, side and rear yard setback: Fifty feet (50'). (Ord. 575, 8-5-2002)

CHAPTER 8

D LIGHT INDUSTRIAL DISTRICT

SECTION:

9-8-1: Use Regulations

9-8-2: Special Exceptions

9-8-3: Development Regulations

9-8-1: USE REGULATIONS:

Within the D light industrial district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Commercial uses:

Administrative and business offices.

Agricultural sales and service.

Automotive rentals.

Automotive repair services.

Automotive sales.

Automotive washing.

Building maintenance services.

Business or trade school.
Business support services.
Cocktail lounge.
Commercial off street parking.
Communications services.
Construction sales and services.
Consumer repair services.
Convenience storage.
Equipment repair services.
Equipment sales.
Laundry services.
Microbrewery, micro-winery or micro-distillery.
Parking facilities.
Service station.
Sexually oriented business.
Vehicle storage.

B. Industrial uses:

Custom manufacturing.
Light manufacturing.
Limited warehousing and distribution.

C. Civic uses:

Administrative services.
Aviation facilities.
Local utility services.
Maintenance and service facilities.
Park and recreation services.
Parking facilities.

Postal facilities. (Ord., 10-11-1990; 1991 Code; Ord. 540, 12-18-2000; Ord. 763, 5-5-2014; Ord. 764, 6-2-2014; Ord. 853, 10-4-2019)

9-8-2: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the D light industrial district subject to the approval of the board of adjustment:

A. Commercial uses:

Animal husbandry (limited).
Brewery, winery or distillery.
Cathode ray tube (CRT) collection facility.
Communications towers.
Discarded appliance demanufacturing.
Kennels.
Materials recovery facility (MRF).
Outdoor entertainment.
Outdoor sports and recreation.
Research services.
Veterinary services.
Wind energy system.

B. Industrial uses:

Communications towers.

General warehousing and distribution.

Military installations.

Resource extraction.

C. Civic uses:

Communications towers.

Detention facilities.

Major utility service.

Public assembly.

Railroad facilities.

Safety services.

Transportation terminals. (Ord., 10-11-1990; Ord. 487, 1-5-1998; Ord. 655, 6-4-2007; Ord. 712, 11-1-2010; Ord. 763, 5-5-2014; Ord. 853, 10-4-2019)

9-8-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the D light industrial district shall be subject to the following regulations:

A. Minimum lot area: Fifteen thousand (15,000) square feet.

B. Minimum lot width: One hundred feet (100').

C. Maximum height: One hundred feet (100').

D. Front yard setback: Fifty feet (50').

E. Side yard setback: Fifteen feet (15').

F. Rear yard setback: Fifteen feet (15').

G. Maximum lot coverage: Eighty percent (80%). (Ord., 10-11-1990)

CHAPTER 9

E HEAVY INDUSTRIAL DISTRICT

SECTION:

9-9-1: Use Regulations

9-9-2: Special Exceptions

9-9-3: Development Regulations

9-9-1: USE REGULATIONS:

Within the E Heavy Industrial District, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Commercial uses:

Administrative and business offices.

Agricultural sales and services.

Automotive repair service.

Automotive washing.

Brewery, winery or distillery.

Building maintenance services.

Business support services.

Communications services.

Construction sales and services.

Convenience storage.

Equipment repair services.

Equipment sales.

Kennels.

Laundry services.

Parking facilities.

Personal improvement services.

Research services.

Sexually oriented business.

Vehicle storage.

Veterinary services.

B. Industrial uses:

Basic industry.

Custom manufacturing.

General warehousing and distribution.

Light manufacturing.

Limited warehousing and distribution.

C. Civic uses:

Aviation facilities.

Local utility services.

Maintenance and service facilities.

Major utility services.

Park and recreation services.

Parking facilities.

Railroad facilities. (Ord., 10-11-1990; 1991 Code; Ord. 540, 12-18-2000; Ord. 764, 6-2-2014; Ord. 814, 6-5-2017; Ord. 853, 10-4-2019)

9-9-2: SPECIAL EXCEPTIONS:

The following may be permitted in the E Heavy Industrial District subject to the approval of the Board of Adjustment:

A. Commercial uses:

Animal husbandry (limited).

Automotive rentals.

Automotive sales.

Cathode ray tube (CRT) collection facility.

Cathode ray tube (CRT) recycling facility.

Communications towers.

Construction and demolition debris recycling facility.

Discarded appliance demanufacturing.

Indoor entertainment.

Indoor sports and recreation.

Materials recovery facility.

Outdoor entertainment.

Outdoor sports and recreation.

Scrap and salvage services.

Waste tire storage and processing facility.

Wind energy system.

B. Civic uses:

- Administrative services.
- Communications towers.
- Safety services.
- Transportation terminals.

C. Industrial uses:

- Communications towers.
- Resource extraction.

Stockyards. (Ord., 10-11-1990; 1991 Code; Ord. 487, 1-5-1998; Ord. 655, 6-4-2007; Ord. 712, 11-1-2010; Ord. 796, 3-21-2016; Ord. 837, 11-26-2018; Ord. 841, 1-7-2019)

9-9-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the E Heavy Industrial District shall be subject to the following regulations:

- A. Minimum lot area: Forty thousand (40,000) square feet.
- B. Minimum lot width: One hundred fifty feet (150').
- C. Maximum height: None, except as may be required in an "airport clear zone".
- D. Front yard setback: Fifty feet (50').
- E. Side yard setback: Twenty five feet (25').
- F. Rear yard setback: Twenty five feet (25').
- G. Maximum lot coverage: Eighty percent (80%). (Ord., 10-11-1990)

CHAPTER 9A

E-1 HEAVY INDUSTRIAL DISTRICT

SECTION:

9-9A-1: Use Regulations

9-9A-2: Special Exceptions

9-9A-3: Development Regulations

9-9A-1: USE REGULATIONS:

Within the E-1 heavy industrial district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Commercial uses:

- Automotive repair service.
- Automotive washing.
- Brewery, winery or distillery.
- Building maintenance services.
- Business support services.
- Communications services.
- Construction sales and services.
- Convenience storage.
- Equipment repair services.
- Kennels.
- Laundry services.
- Parking facilities.
- Research services.
- Sexually oriented business.

Vehicle storage.

Veterinary services.

B. Industrial uses:

Basic industry.

Custom manufacturing.

Food processing.

General warehousing and distribution.

Light manufacturing.

Limited warehousing and distribution.

Major food processing.

C. Civic uses:

Aviation facilities.

Local utility services.

Maintenance and service facilities.

Major utility services.

Parking facilities.

Railroad facilities. (Ord. 757, 9-16-2013; Ord. 764, 6-2-2014; Ord. 853, 10-4-2019)

9-9A-2: SPECIAL EXCEPTIONS:

The following may be permitted in the E-1 heavy industrial district subject to the approval of the board of adjustment:

A. Commercial uses:

Animal husbandry (limited).

Cathode ray tube (CRT) collection facility.

Cathode ray tube (CRT) recycling facility.

Communications towers.

Construction and demolition debris recycling facility.

Discarded appliance demanufacturing.

Materials recovery facility.

Scrap and salvage services.

Waste tire storage and processing facility.

Wind energy system.

B. Civic uses:

Administrative services.

Communications towers.

Safety services.

Transportation terminals.

C. Industrial uses:

Communications towers.

Resource extraction.

Stockyards. (Ord. 757, 9-16-2013)

9-9A-3: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the E-1 heavy industrial district shall be subject to the following regulations:

A. Minimum lot area: Forty thousand (40,000) square feet.

B. Minimum lot width: Three hundred feet (300').

C. Maximum height: None, except as may be required in an "airport clear zone".

- D. Front yard setback: Seventy five feet (75').
- E. Side yard setback: Seventy five feet (75').
- F. Rear yard setback: Seventy five feet (75').
- G. Maximum lot coverage: Eighty percent (80%). (Ord. 757, 9-16-2013)

CHAPTER 10

MH MOBILE HOME DISTRICT

SECTION:

9-10-1: Use Regulations

9-10-2: Special Exception Uses

9-10-3: Development Regulations

9-10-1: USE REGULATIONS:

Within the MH mobile home district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Residential uses:

Mobile home residential.

B. Civic uses:

Community recreation.

Daycare services (limited).

Local utility services.

Park and recreation services.

C. Commercial uses:

None. (Ord., 10-11-1990)

9-10-2: SPECIAL EXCEPTION USES:

Within the MH mobile home district, the following uses and structures may be permitted subject to review of the board of adjustment:

A. Residential uses:

Wind energy system.

B. Civic uses:

None.

C. Commercial uses:

None.

D. Industrial uses:

None. (Ord., 10-11-1990; Ord. 712, 11-1-2010)

9-10-3: DEVELOPMENT REGULATIONS:

Each mobile home park shall be developed in accordance with the following regulations:

A. Development Plan: The following information shall be shown on the development plan or submitted in writing with it:

1. The name of the proposed mobile home park.
2. Names, addresses and telephone numbers of the developer(s) or the developer's representative.
3. Location of the mobile home park, giving the subdivision and lot numbers.
4. A map of the entire area scheduled for development, if the proposed development is a portion of a larger holding intended for subsequent development.
5. A location map showing the relationship of the proposed development and the adjacent tracts or parcels.
6. The present land uses and the existing zoning of the proposed development and the adjacent tracts or parcels.
7. Interior streets, streets, street names, rights of way and roadway widths.
8. All lot lines and open spaces with dimensions shown.

9. Delineation of all improvements required in this Section.

B. Permitted Accessory Uses and Requirements Thereof:

1. Accessory buildings or structures under park management supervision shall be used only as office space, storage, laundry facilities, recreation facilities, garage storage or other necessary service for park residents only. No accessory building or structure shall exceed twenty five feet (25') in height; and shall meet requirements of the applicable codes and ordinances.

2. A mobile home may be displayed and offered for sale, provided that the mobile home is situated on a permanent pad within the mobile home park.

C. Required Development Standards:

1. The land area of a mobile home park shall not be less than eighty thousand (80,000) square feet.

2. Mobile home sites shall be at least four thousand (4,000) square feet in area.

3. Each mobile home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities and plumbing and electrical connections designed for attachment to appropriate external systems and so attached.

4. Each mobile home site shall have side yards with each yard having a width of not less than six feet (6').

5. Each mobile home site shall have front and rear yards with the rear yard not less than ten feet (10') in depth and the front yard of not less than twenty five feet (25'). Corner mobile home sites shall have front yard setbacks on each street frontage.

6. For the purpose of this Section, yard width shall be determined by measurement from the mobile home face (side) to its mobile home site boundary from which every point shall not be less than the minimum width herein provided. The rear yard shall be the yard opposite and having the farthest distance as measured from the street or public way.

7. From all lots, a minimum distance of thirty five feet (35') shall be maintained from the boundary of the mobile home park.

8. A mobile home shall not be permitted to occupy single or multiple sites if either its length or width would cause it to occupy the space required by yard setback dimensions.

9. Each mobile home site shall be provided with a stand consisting of reinforced concrete runways not less than four inches (4") thick and not less than the length of the mobile home that will use the site. These runways will be so constructed, graded and placed to be durable and adequate for support of the maximum anticipated load during all seasons.

10. Each mobile home shall be anchored to the ground as provided in chapter 16.626(2), Code of Iowa.

11. A permanent type material and construction compatible with the design and color of the mobile home shall be installed to enclose the open space between the bottom of the mobile home floor and the grade level of the mobile home stand, and shall be constructed to provide substantial resistance to heavy winds. Skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park. Sufficient screened ventilating area shall be installed in the skirting to supply the combustion requirements of heating units and ventilating of the mobile home. Provisions shall be made for easy removal of a section large enough to permit access or inspection of the enclosed area under the mobile home, and for repair of sewer and water riser connections.

12. All mobile homes within such park shall be suitably connected to common sewer and water services provided at each mobile home site.

All sanitary sewer facilities, including plumbing connections to each mobile home site, shall be constructed so that all facilities and lines are protected from freezing, from bumping or from creating any type of nuisance or health hazard. Sewage facilities shall be of such capacity to adequately serve all users of the park at peak periods. Running water from a tested and approved supply, designed for a minimum flow of two hundred (200) gallons per day per mobile home site shall be piped to each mobile home. All sanitary sewer and water facilities shall conform to minimum State and County health regulations and other applicable sections of the City Code. Storm drainage facilities shall be so constructed as to protect those who reside in the mobile home park as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.

13. All electric, telephone, and other lines from supply poles outside the park or other sources to each mobile home shall be placed underground.

14. Any fuel storage shall be in accordance with applicable Federal, State and local regulations.

15. All roads, driveways and motor vehicle parking spaces shall be paved and constructed so as to handle anticipated peak loads, and adequately drained and lighted for safety and ease of movement of pedestrians and vehicles. All roads and driveways shall have curbs and gutters.

16. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public and private streets or roads to each mobile home site. Alignment and gradient shall be properly adopted to topography. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have minimum road pavement width of forty one feet (41') where parking is permitted on both sides, or a minimum road pavement width of thirty one feet (31') where parking is limited to one side. When primary entrance road is more than one hundred feet (100') long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be twenty four feet (24'), with parking limited to one side thirty one feet (31'), with parking permitted on both sides forty one feet (41').

17. If any dead-end place or court is more than two hundred fifty feet (250') in length, it shall terminate in an open space, preferably circular have a minimum dimension of one hundred feet (100'). Except in unusual instances, no dead-end street or place

shall exceed six hundred feet (600') in length.

18. All streets of a mobile home park providing ingress and egress from an abutting public street or road shall have the location and design of intersection with said public street or road approved by the Superintendent of Public Works and by any other governmental agency exercising control over such streets or roads.

19. All parks shall be furnished with lighting units spaced and equipped with approved fixtures, placed at mounting heights that will provide the following average maintained levels of illumination for safe movement of pedestrians and vehicles at night; all parts of the park street system six-tenths (0.6) foot-candle, with a minimum of two and five-tenths (2.5) foot-candles; potentially hazardous locations, such as major street intersections and steps or stepped ramps, individually illuminated with a minimum of four-tenths (0.4) foot-candle.

20. All streets intended for general public use shall be dedicated as a public right of way and subject to such improvements as may be required by the Superintendent of Public Works.

21. All streets intended primarily for use of park occupants, guests and services shall be owned and maintained by the mobile home park owner. Private streets shall be constructed with either hot mix asphaltic concrete or Portland cement concrete with an approved curb to provide for drainage and shall be constructed to specifications approved by the Superintendent of Public Works. Street surfaces shall be maintained free of cracks, holes and other hazards.

22. Grades of all streets shall be sufficient to insure adequate surface drainage, and shall have prior approval of the Superintendent of Public Works before commencing with construction.

23. Streets shall be at approximately right angles within fifty feet (50') of an intersection. A distance of at least one hundred feet (100') shall be maintained between center line of off-set intersecting streets unless specifically approved by the Superintendent of Public Works. Intersections of more than two (2) streets at one point shall be avoided.

24. The limits of each mobile home site shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finished lot grade.

Location of lot limits on the ground shall be approximately the same as shown on the approved plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is not to be construed as permitting lots of a lesser size than the required minimum or permitting lesser yard or setback dimensions than set forth elsewhere in this Chapter.

25. A shelter shall be provided, capable of affording protection from windstorms, for all mobile home park residents.

26. No mobile home shall be connected to water, sewer or electrical service unless the mobile home complies with the standards and requirements prescribed by "Standards for Mobile Homes, USAS A119.1, 1963" and amendments thereto, published by the United States of America Standards Institute as applicable, which said publication is hereby adopted and by reference made a part of this Chapter, a copy of which is and shall remain on file in the office of the Building and Zoning Officer. Compliance with these standards shall be determined by the Building and Zoning Officer. A certificate, if issued by the manufacturer of the mobile home, shall be permanently affixed on a readily visible location on the exterior of the mobile home as prima facie evidence of such compliance.

27. The maximum ground coverage shall be seventy percent (70%) with the remaining thirty percent (30%) reserved for landscaping. (Ord., 10-11-1990; 1991 Code)

CHAPTER 10A

R RIVERFRONT DISTRICT

SECTION:

9-10A-1: Subdistricts; Height Regulations

9-10A-2: Use Regulations

9-10A-3: Special Exceptions

9-10A-4: Development Regulations

9-10A-5: Supplemental Development Regulations

9-10A-6: Off Street Parking

9-10A-1: SUBDISTRICTS; HEIGHT REGULATIONS:

The R riverfront zoning district is divided into three (3) subdistrict areas as depicted on the city of Spencer official zoning map: RF1, RF2, and RF3. All provisions of this chapter apply in each of these three (3) districts, except the following height regulations:

The maximum height of structures in the RF1 district is three (3) stories or sixty feet (60'). The maximum height in the RF2 district is two (2) stories or thirty feet (30') and the maximum height in the RF3 district is three (3) stories or forty five feet (45'). (Ord. 723, 7-18-2011)

9-10A-2: USE REGULATIONS:

Within the R riverfront district, unless otherwise provided in this title, no building or land shall be used for other than one or more of the following purposes:

A. Residential uses:

Bed and breakfast.
Duplex residential.
Family home.
Multiple-family residential.
Single-family.

B. Commercial uses:

Administrative and business offices.
Cocktail lounge.
Communications services.
Consumer repair services.
Financial services.
Food sales.
General retail sales.
Hotel/motel.
Indoor entertainment.
Liquor sales.
Medical office.
Microbrewery, micro-winery or micro-distillery.
Personal improvement services.
Personal services.
Pet services.
Professional offices.
Research services.
Restaurants (convenience).
Restaurants (general).

C. Civic uses:

Club or lodge.
Cultural services.
Daycare services (limited).
Local utility services.
Park and recreation services.
Parking facility.
Safety services. (Ord. 723, 7-18-2011; amd. Ord. 853, 10-4-2019)

9-10A-3: SPECIAL EXCEPTIONS:

The following uses and structures may be permitted in the R riverfront zoning district subject to the approval of the board of adjustment:

A. Commercial uses:

Artists' school.
Building maintenance services.
Business support services.
Communications towers.
Indoor sports and recreation.
Parking facility.

B. Industrial uses:

None.

C. Civic uses:

Administrative services.

Communications towers.

Guidance services.

Public assembly.

Religious assembly.

Repair and maintenance facility. (Ord. 723, 7-18-2011)

9-10A-4: DEVELOPMENT REGULATIONS:

Unless otherwise provided in this title, each development in the R riverfront district shall be subject to the following regulations:

A. Minimum lot area: Five thousand (5,000) square feet.

B. Minimum lot width: Forty feet (40').

C. Maximum lot coverage: Eighty percent (80%).

D. Front yard setback: Fifteen feet (15').

E. Side yard setback:

Single-story building: Six feet (6').

Two-story building: Eight feet (8').

Three-story building: Ten feet (10').

F. Rear yard setback: Twenty feet (20'). (Ord. 723, 7-18-2011)

9-10A-5: SUPPLEMENTAL DEVELOPMENT REGULATIONS:

The following specific development regulations apply in the R riverfront district:

A. Open Porches And Decks: Single-story open porches and decks may be constructed up to within five feet (5') of the front property line, so long as at least one-half ($\frac{1}{2}$) of the front yard area is maintained as open space.

B. Accessory Structures: Detached accessory structures within the district shall comply with subsection 9-11-8D of this title.

C. Building Exteriors: At least ninety percent (90%) of the exterior wallcovering material of such building facade shall consist of brick, stone; ceramic tile; burnished or textured concrete block; horizontal or vertical wood, vinyl, steel or composite lap siding; natural or synthetic stucco. The use of smooth, ribbed or corrugated metal, corrugated fiberglass or untextured concrete block shall not be an acceptable wall material to meet the requirements of this subsection. No more than ten percent (10%) of any building facade may be covered in an unapproved material.

D. Fences: Fences shall comply with the provisions of title 8, chapter 5 of this code, except that no fence shall exceed six feet (6') in height.

E. Sidewalks: Within one year of the date on which a change of occupancy or use occurs on a parcel, a public sidewalk shall be constructed along the street line of the property. If a sidewalk exists, within one year of the change of occupancy or use, the existing sidewalk shall be repaired or replaced to meet current city sidewalk standards.

F. Exterior Lighting: Exterior lighting shall be designed and installed so as to cast light only on the property where the light is located. Exterior lighting shall not be directly visible from above.

G. Landscaping: On lots that are being used for commercial purposes, at least one-half ($\frac{1}{2}$) of the front yard area will be planted with vegetation consisting of ivy, vines, flowering plants, shrubs or bushes, grasses and other similar perennials and annuals. Such plantings are not to exceed four feet (4') in height. On corner lots only one front yard area will be required to supply a landscaped area.

H. Signs: The maximum area for a commercial on premises freestanding or wall sign is ten percent (10%) of the building facade. Freestanding ground signs are limited to a maximum height of ten feet (10'). (Ord. 723, 7-18-2011)

9-10A-6: OFF STREET PARKING:

A. The minimum number of off street parking spaces shall comply with section 9-11-3 of this title.

Off street parking may be established on one-half ($\frac{1}{2}$) of a front yard, as long as at least one-half ($\frac{1}{2}$) of the yard is maintained as open space. Lots with front lines abutting Grand Avenue are not subject to the restriction set forth in the previous sentence.

All off street parking areas must be paved with portland cement concrete (PCC) or hot mix asphaltic concrete (HMAC) within five (5) years of the date the parking area is established.

Minimum off street parking spaces required under this section may be provided by lease or ownership, on property located within

three hundred feet (300') of the parcel for which the off street parking is provided. (Ord. 723, 7-18-2011)

CHAPTER 11

GENERAL REGULATIONS

SECTION:

9-11-1: Accessory Uses

9-11-2: Temporary Uses

9-11-3: Off Street Parking; Loading Space

9-11-4: Nonconforming Uses

9-11-5: Zoning Of Annexed Areas

9-11-6: Governmental Bodies

9-11-7: Accessory Vehicles

9-11-8: Supplemental Use Regulations

9-11-9: Wood Stacks And Composting Piles

9-11-10: Growing Of Certain Plants And Grasses Permitted

9-11-11: Minimum Requirements For Residential Structures

9-11-12: Access Structures For Persons With Disabilities

9-11-13: Sexually Oriented Business Regulations

9-11-14: Setback Lines On Corner Lots

9-11-15: Site Development Standards For Microbreweries, Micro-Winery Or Micro-Distillery

9-11-1: ACCESSORY USES:

A. Purpose: The purpose of these provisions is to establish the relationship among principal and accessory uses and to establish provisions governing the conduct of accessory uses.

B. Principal Use Includes Accessory Use: Principal uses specified as permitted uses or special exception uses for a district by the district regulations shall be deemed to include accessory uses and activities identified by these regulations and such other accessory uses that are necessary and customarily associated with and are appropriate, incidental, and subordinate to such principal uses. Accessory uses shall be subject to the same regulations as apply to principal uses in each district, except as otherwise provided in these regulations.

C. Gardens Permitted: Home gardens and the growing of crops shall be an accessory use permitted in any district. However, gardening and the growing of crops shall be subject to the restrictions applicable to home occupations.

D. Signs Permitted: Signs shall be permitted in each district as an accessory use so long as they remain in conformance with the provisions of this chapter and other applicable ordinances and regulations adopted by the city.

E. Accessory Uses; Residential Use Types: Residential use types shall include the following accessory uses, activities, and structures:

1. Private garages and storage consistent with residential use.
2. Recreational activities and facilities for use by residents.
3. Playhouses, patios, cabanas, porches, gazebos and incidental household storage buildings.
4. Radio and television receiving antennas.
5. Solar collectors.
6. Keeping of dogs and cats or other pets and hobby animals as defined in section 6-4-10 of this code.
7. Other necessary and customary uses determined by the building and zoning officer to be appropriate, incidental and subordinate to the principal use.
8. Signs permitted under title 8, chapter 7 of this code.

F. Accessory Uses; Commercial Use Types: Commercial use types shall include the following accessory uses, activities and structures:

1. Any other commercial use type that is not listed as a permitted use in the same district, and complies with the following criteria:

- a. Is operated primarily for the convenience of employees, clients, or customers of a principal use.
 - b. Occupies less than ten percent (10%) of the total floor area of the use.
 - c. Is located and operated as an integral part of the principal use and does not comprise a separate business or activity.
2. In the CBD central business district only, one residential dwelling unit located on a floor above the main or ground floor shall be permitted as an accessory use to a primary commercial, civic or industrial use.
- G. Accessory Uses; Industrial Use Types: Industrial use types shall include the following accessory uses, activities and structures:
- 1. Any commercial use type or any other industrial use type that is not a permitted use in the same district, and complies with the following criteria:
 - a. Is operated primarily for the convenience of employees, clients, or customers of the principal use.
 - b. Occupies less than twenty five percent (25%) of the total floor area of the use.
 - c. Is located and operated as an integral part of the principal use and does not comprise a separate use or business activity.
- H. Accessory Uses; Civic Use Types: Civic use types shall include accessory uses and activities necessarily and customarily associated with the purpose and function of the civic use as a principal use, including, but not limited to, the following:
- 1. Refreshment stands and food and beverage sales of a convenience nature located in uses involving public assembly.
 - 2. Cafeterias, dining halls, and similar eating and beverage services operated incidental to principal uses and primarily for the convenience of employees, residents, clients, patients, or visitors thereof.
 - 3. Gift shops, newsstands, and similar commercial activities operated incidental to principal uses and primarily for the convenience of employees, residents, clients, patients, or visitors thereof. (Ord., 10-11-1990; 1991 Code; Ord. 407, 1-20-1992; Ord. 496, 7-13-1998; Ord. 510, 1-18-1999)

9-11-2: TEMPORARY USES:

- A. Purpose: Provisions authorizing temporary uses are intended to permit occasional, temporary uses and activities when consistent with the purposes of the zoning regulations and when compatible with other nearby uses.
- B. Temporary Use Types: The following types of temporary uses may be authorized subject to specific limitations herein and such additional conditions as may be established by the building and zoning officer:
- 1. Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project.
 - 2. Religious, patriotic or historic assemblies, displays, or exhibits.
 - 3. Circuses, carnivals, rodeos, fairs or similar transient amusement, or recreational activities not closer than two hundred feet (200') from an existing dwelling.
 - 4. Outdoor art and craft shows and exhibits.
 - 5. Christmas tree sales lots.
 - 6. Mobile home residence for occupancy by supervisory or security personnel on the site of an active construction project.
 - 7. Outdoor special sales, including swap meets, flea markets, parking lot sales or similar activities, limited to locations in commercial or industrial districts, and when operated not more than three (3) days in the same week or more than five (5) days in the same month.
 - 8. Temporary use of mobile trailer units or similar portable structures for nonresidential uses, located in districts where the use is a permitted use, and limited to a maximum period of six (6) months.
 - 9. Seasonal retail sale of agricultural or horticultural products raised or produced off-premises, when located not closer than two hundred feet (200') to an existing dwelling.
 - 10. Additional temporary uses determined to be similar to the foregoing by the building and zoning officer.
 - 11. Temporary signs relating to temporary uses.
- C. Required Conditions Of Temporary Uses:
- 1. Each site occupied by a temporary use shall be left free of debris, litter or other evidence of the temporary use upon completion or removal of the use.
 - 2. A temporary use conducted in a parking facility shall not occupy or remove from availability more than twenty five percent (25%) of the spaces required for the permanent use.
 - 3. The building and zoning officer may establish such additional conditions as he/she deems necessary to ensure land use compatibility and to minimize potential impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup following the temporary use.
- D. Determinations: The building and zoning officer may authorize a temporary use only when, in his/her judgment, the following determinations can be made:
- 1. The temporary use will not impair the normal, safe and effective operation of a permanent use on the same site.

2. The temporary use will be compatible with nearby uses in the general vicinity.

3. The temporary use will not impact public health, safety or convenience, or create traffic hazards or congestion, or otherwise interrupt or interfere with the normal conduct of uses and activities in the vicinity.

E. Application And Authorization:

1. Application to conduct a temporary use shall be made to the building and zoning officer, and shall include a site plan and description of the use, and such additional information as the building and zoning officer may require to evaluate the use and to make the determination required by these provisions.

2. Application shall be made at least ten (10) days prior to the requested date for commencement of the temporary use, and the building and zoning officer shall make a determination whether to approve, approve conditionally, or to deny the temporary use within five (5) days after the date of application.

3. Authorization of a temporary use shall be by issuance of a zoning permit or a certificate of occupancy.

F. Extension: Authorization for a temporary use may be renewed by the building and zoning officer, upon request of the applicant, provided temporary use shall not be authorized or continued for a period of more than one year except upon a new application and authorizations. (Ord., 10-11-1990; 1991 Code)

9-11-3: OFF-STREET PARKING; LOADING SPACE:

A. General Parking Area And Surface Requirements: All off- street parking areas as required in this section shall comply with the following minimum area and surface requirements:

1. Size Requirements: A parking space shall be not less than eight feet (8') in width and not less than nineteen feet (19') in length.

2. Surface Requirements: Parking spaces shall be surfaced with portland cement, concrete asphaltic concrete, or equivalent hard surface, or two inch (2") thickness pit run one inch (1") screened gravel with fifteen percent (15%) binder.

3. Enclosed Areas, Garages: Enclosed parking areas or garages, if surfaced as required in subsection A2 of this section shall qualify to meet the minimum parking space requirements under this section.

4. Minimum Requirements: Requirements as to number and size of parking spaces in this section are minimum requirements only and shall not be construed as limitations.

5. Penalties: Wilful failure to permanently maintain and provide parking spaces as required under this section shall be a simple misdemeanor and each day such violation continues shall be considered a separate offense.

B. Off Street Parking Requirements: Except in the CBD Zoning District, at the time of construction or enlargement of a structure or building, off street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

1. Single-family residential: 2 spaces.

2. Duplex residential: 3 spaces.

3. Multi-family residential: 1.5 spaces per dwelling unit.

4. Mobile home residential: 2 spaces.

5. Hotel/motel: 1 space per room.

6. Hospital: 1 space for each 2 hospital beds.

7. Places of public assembly (theaters, auditoriums, etc.): 1 space for each 6 seats.

8. Bowling alleys: 3 spaces per alley.

9. Skating rinks/dance halls: 1 space for each 300 square feet of floor area.

10. Retail sales and professional office: 1 space for each 500 square feet of gross floor area.

11. Restaurants: 1 space for each 4 seats plus 1 space for each 2 employees.

12. Taverns, bars and cocktail lounges: 1 space for each 2 seats.

13. Primary educational facilities: 1 space per classroom or 1 space for every 6 seats in the largest facility for public assembly, whichever is the greater.

14. Secondary educational facilities and colleges/universities: 1 space per 10 students or 1 space for every 6 seats in the largest facility for public assembly, whichever is the greater.

15. Manufacturing or industrial: 1 space for every 2 employees on the largest working shift.

16. Assisted elderly housing: 4 parking spaces or $1\frac{1}{2}$ space for each residential unit, whichever is greater.

C. Off Street Parking Requirements In The CBD Zoning District: When new residential construction is accomplished in the CBD Zoning District, one and one-half ($1\frac{1}{2}$) off street parking spaces shall be provided for each dwelling unit.

D. Self-Propelled And Accessory Vehicles: Effective July 1, 2019, parking of self-propelled vehicles and Class I accessory vehicles on single family, two-family and multi-family residential dwellings in the City of Spencer shall be limited as follows:

1. Surfaced: All parking areas and driveways shall meet the requirements of subsection D2a of this section and shall be surfaced as therein required.

2. Requirements:

a. On residential lots with a street frontage of less than sixty feet (60'), no more than fifty percent (50%) of the front yard area shall be surfaced and used for drives and parking.

b. On residential lots with a street frontage of sixty feet (60') or more in width, not more than forty percent (40%) of the front yard area shall be surfaced and used for drives and parking.

c. On residential lots where two (2) or more sides abut a public street, the allowable drive and parking areas for the narrower street frontage shall be determined as described in subsections D2a and D2b of this section. For the greater street frontage, the maximum area to be surfaced and used for drives and parking within that front yard is twenty five percent (25%).

d. For purposes of this section, a "front yard" is defined as that area between the wall of the principal building and a lot line which abuts a public street and the extension of said building line to the lots lines.

3. Violation: The parking of any self-propelled vehicle or Class I accessory vehicle in violation of this subsection shall be a simple misdemeanor, chargeable by citation or Municipal infraction.

4. Exemptions: The provisions of this subsection D shall not apply during any "snow event" as described in subsection 7-5-7A of this Code, nor during a period beginning two (2) days before the Clay County Fair and ending two (2) days after the fair.

5. Permit For Construction:

a. Whenever any person shall desire to construct "front yard" parking surface improvements in compliance with this subsection D, such person shall obtain from the City Zoning Officer a permit for the proposed front yard parking construction.

b. The fee for front yard parking surface improvements pursuant to this subsection shall be in an amount as determined from time to time by resolution of the Spencer City Council.

c. The application for the permit required for this subsection and the permit form shall be as created by the Spencer Planning Department. All such permits issued shall be valid until the subsequent November 15.

d. If a permit under the provisions of subsection 5-1A-3C of this Code is required and obtained and the permit fee paid in connection with a permit required under this subsection, the permit fee under this subsection shall be waived. (Ord., 10-11-1990; Ord. 497, 7-13-1998; Ord. 544, 3-19-2001; Ord. 766, 7-7-2014; Ord. 840, 12-3-2018; Ord. 843, 3-18-2019)

9-11-4: NONCONFORMING USES:

A. Intent: It is the intent of this title to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exists within the districts established by this title and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this title was passed or amended which would be prohibited, regulated, or restricted under the terms of this title and future amendments.

Such uses are declared by this title to be incompatible with permitted uses in the districts involved. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this title by attachment on any building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

To avoid undue hardship, nothing in this title shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this title and upon which actual building construction has been diligently carried on. "Actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of existing buildings has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, providing that work shall be diligently carried on until completion of the building involved.

B. Nonconforming Uses Of Land: Where at the effective date of adoption or amendment of this title, a lawful use of land exists that is made no longer permissible under the terms of this title as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title.

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this title.

3. If such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this title for the district in which such land is located.

C. Nonconforming Structures: Where a lawful structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.

2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its one hundred percent (100%) valuation, it shall be repaired or reconstructed only in conformity with the provisions of this title.

3. Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

D. Nonconforming Uses Of Structures And Land: Where a lawful use of a structure, or of a structure and land in combination exists at the effective date of adoption or amendment of this title that would not be permitted in the district under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this title, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided that the Board of Adjustment by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require conditions and safeguards in accord with the purpose and intent of this title. Where such nonconforming use of a structure, land or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceased to exist for a period of more than ninety (90) days, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

6. Where nonconforming use status applied to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

E. Repairs And Maintenance: On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) months on ordinary repairs, or on repairs or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of the one hundred percent (100%) valuation of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this title shall not be increased.

Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official.

F. Change Of Tenancy Or Ownership: There may be a change of tenancy, ownership, or management of any existing nonconforming use of land, of structures, or of structures and land in combination. However, industrial uses located in residential zones may not be allowed to continue after a change in ownership.

G. Alteration, Extension Or Reconstruction: All other provisions of this title notwithstanding, any residential structure, including single-family residential, two-family residential, duplex residential, group residential and multi-family residential, which is a nonconforming use by virtue of its location in a zoning district in which such a use is not permitted, may be altered, extended or reconstructed as follows:

1. Such nonconforming residential structures may be altered, extended or reconstructed to the extent such alteration, extension or reconstruction would be permitted under this title if the structure were located in the A Residential District established under the zoning ordinance.

2. This subsection G shall not authorize the change of the use of the structure to any nonconforming use other than residential, nor to authorize the expansion of the nonconforming use, except as such expansion would be permitted if the structure were located in the A Residential District. (Ord., 10-11-1990; Ord. 430, 11-2-1992)

9-11-5: ZONING OF ANNEXED AREAS:

Any land annexed to the City after the effective date of this title shall automatically assume the City zoning district classification which corresponds to the Clay County zoning classification which applied prior to the annexation; except that annexed land which had been zoned agricultural by Clay County shall be automatically zoned A Residential upon annexation.

Any land annexed by the City which has not been zoned by Clay County shall automatically be zoned A Residential. (Ord., 10-11-1990)

9-11-6: GOVERNMENTAL BODIES:

All Municipal, County, and State agencies, subdivisions or governmental units must comply with all of the zoning regulations of the City as set forth in this Code. All such agencies, governmental units and subdivisions thereof, must follow the same procedures in applying for any building permit, variance or any other request where the zoning laws of the City are applicable.

The foregoing provisions of this section notwithstanding, the placement, construction, or operation of "major utility facilities", as defined in subsection 9-2-2D16 of this title, by the City or the Spencer Municipal utilities shall be exempt from the provisions of this

title. This exemption shall apply only to "major utility facilities" owned by the City or controlled and operated by Spencer Municipal utilities. (Ord., 10-11-1990; Ord. 491, 3-2-1998)

9-11-7: ACCESSORY VEHICLES:

A. General Regulations:

1. No accessory vehicles shall be parked or stored within any required front yard setback or closer than two feet (2') to a side or rear lot line on property used for residential purposes, except as specifically provided under subsections B and C of this section.
2. Accessory vehicles that are parked or stored in an enclosed structure are exempt from the provisions of this section.
3. No more than two (2) accessory vehicles may be parked or stored on premises used for residential purposes. An accessory vehicle or vehicles on a trailer shall be considered one vehicle. Two (2) snowmobiles shall be excluded in determining the number of vehicles.
4. All accessory vehicles parked or stored on premises used for residential purposes shall be kept in good repair and in good working condition with current license plate or registration sticker affixed.
5. No portion of any parked or stored accessory vehicle shall extend or protrude beyond the front property line.
6. Accessory vehicles shall not be used for continuing human occupancy, except in a mobile home court or a campground.

B. Class I Accessory Vehicles:

1. One Class I accessory vehicle may be parked or stored in a front yard setback.
2. No snowmobiles shall be parked or stored in a front yard setback during the period from April 15 to October 15.
3. No watercraft or golf cart shall be stored in a front yard setback during the period from November 15 to March 15.

C. Class II Accessory Vehicles:

1. One Class II accessory vehicle may be parked in a front yard setback area not more than two (2) days in a seven (7) day period; and, additionally, may be parked in a front yard setback area for up to seven (7) consecutive days not more than three (3) times during a calendar year.
2. Class II accessory vehicles may not be parked or stored in a front yard setback area during the period from January 1 to March 15 in any year.
3. If parked in a front yard setback, a Class II accessory vehicle must be parked on a paved or graveled driveway, or its extension, while maintaining a minimum side yard setback of two feet (2').
4. A Class II accessory vehicle parked or stored in a front yard setback shall be perpendicular to the front property line.
5. A Class II accessory vehicle parked or stored on property used for residential purposes must be the property of the owner or tenant of the premises, except that one additional accessory vehicle not the property of the owner or tenant of the premises may be stored in the rear yard and one nonowned Class II accessory vehicle may be parked pursuant to the provisions of subsection C1 of this section, so long as no consideration is paid or received for the storage. The maximum number of accessory vehicles which may be parked or stored on premises used for residential purposes is two (2) with the addition of one temporary Class II accessory vehicle parked pursuant to subsection C1 of this section.

D. Class II Accessory Vehicles; Exceptions: A property owner or tenant may apply to the Spencer Zoning Officer for permission to park or store a Class II accessory vehicle in a front yard setback for additional periods, and the Zoning Officer may grant such permission under the following conditions:

1. The Zoning Officer determines that the rear yard cannot be reasonably accessed from a street or alley or used due to the location of the principal structure, accessory structures, trees or setback limitations constructed, existing or adopted prior to the effective date of this section.
2. The requested storage will not unreasonably interfere with the use and enjoyment of the other residential properties in the area.
3. There must be maintained on the property at least one off street parking space, as required under section 9-11-3 of this chapter, in addition to the area where the accessory vehicle is parked.
4. The Zoning Officer may waive the requirement that a Class II accessory vehicle be parked perpendicular to the front property line on corner lots.
5. The Zoning Officer may not waive the prohibition of subsection C2 of this section.

Any person denied permission by the Zoning Officer to park or store an accessory vehicle in the front yard setback area and any person who objects to the grant of permission to park or store an accessory vehicle in the front yard setback area may file an administrative appeal of the Zoning Officer's decision to the Spencer Board of Adjustment. A person who objects to the grant of permission to park or store an accessory vehicle in the front yard setback area may file an administrative appeal at any time. The fifteen (15) day requirement set forth in subsection 9-12-3A of this title shall not apply to such an appeal. (Ord., 10-11-1990; Ord. 581, 2-17-2003; Ord. 589, 9-2-2003; Ord. 839, 12-3-2018)

9-11-8: SUPPLEMENTAL USE REGULATIONS:

A. Purpose: These provisions apply to specific use classifications in addition to regulations established by the district regulations. In the event of any conflict in provisions, the more restrictive provision shall apply unless specifically indicated to the contrary.

B. Zero Lot Line Development (Townhouse And Duplex Regulations):

1. Purpose And Intent. The purpose of this Section is to allow for the development of single family, duplex, or multi-lot townhouse dwellings on property with design standards prescribed to allow for zero side lot line setbacks. This concept is intended to provide more usable yard area and provide development flexibility relating only to side yard setbacks. Any zero lot line development approval under this section shall be restricted to development as prescribed herein.

2. Firewall Regulations. Any zero side lot line development, including but not limited to townhouse or duplex common walls, shall comply with the firewall regulations of the International Building Code pertaining to any joint building wall located at the common property line.

3. Zero Lot Line Development In New Subdivisions. Zero lot line side yards allowing for the placement of a building or structure on a side property line may be approved at the time of preliminary plat or amendment, or any manufactured home park approval or amendment. On such zero lot line developments, the minimum required front and rear yard setback requirements shall be maintained; and the side yard opposite of the zero lot line side shall maintain setback requirements as identified in this ordinance. Minimum lot width and area requirements for newly platted parcels shall be limited to:

Any residential zoned lots - 40 feet lot width	4,000 square feet lot area
Mobile Home District - no minimum lot width	4,000 square feet lot area
Central Business District - no minimum lot width	4,000 square feet lot area
All other zoning districts - 40 feet lot width	4,000 square feet lot area

4. Zero Lot Line Development In Existing Subdivisions. Owners of a single tract or parcel wishing to split the property for purposes of a zero lot line development may do so, subject to the requirements of this paragraph.. Minimum lot width and area requirements for parcels and lots within existing subdivisions shall be limited to:

Any residential zoned lots - 25 feet lot width	2,500 square feet lot area
All other zoning districts - no minimum lot width	4,000 square feet lot area

If lot width or area requirements cannot be accommodated, such zero lot line development may be granted special exception status by the Zoning Board of Adjustment.

5. Zero Lot Line Design Standards. Zero lot line development for single family or duplex residential may only have one common property line. Zero lot line for multiple family residential, townhouse developments, or commercial properties may be a series of lots in a row upon which each parcel has zero lot line on each side in order to accommodate multiple building units in a row. In any case, the end unit in any proposed development shall have the minimum required side yard. In the case of a corner lot, the end unit in a zero lot line development shall have a side yard setback the same distance as the front yard setback for the zoning district in which the property is located. Any lot divided for zero lot line development shall maintain a minimum of twenty-five feet (25') in width and 2,500 square feet in lot size.

6. Utilities. When zero lot line development is approved for any development, each portion of a property, parcel or tract effectively split by the zero lot line shall be provided with a separate water meter, water shut off, electric meter, gas meter (if applicable), sewer main or septic system (as applicable) wholly contained on the lot and dedicated to serve each individual dwelling or building.

7. Maintenance Agreement. For any building sharing a zero lot line a duplex agreement, party wall agreement, or construction maintenance agreement shall be prepared and filed with the City between the owners of the zero lot line lots. Such agreement shall be recorded in the County Recorder's Office. The purpose of such agreement is to identify responsibilities and access for construction, maintenance, and repairs of the dwellings or buildings located and sharing the zero lot line.

C. Home Occupations: An accessory use conducted entirely within a dwelling unit, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site.

Home occupations accessory to the residential use shall be subject to the following limitations:

1. The residential character of the building must be maintained.
2. Only one unrelated person living outside the residence and members of the immediate family may be employed in the home occupation.
3. The use must be conducted as a secondary use and in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term. The occupation must be conducted entirely within the dwelling which is a bona fide residence of the practitioners, or within an attached garage.
4. The use must not infringe upon the right of neighboring residents to enjoy peaceful and healthy occupancy of their home for which purpose the residential district was created and primarily intended.
5. The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste runoff outside the dwelling unit or on the property surrounding the dwelling unit.

6. Has no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
7. May have no more than one, flush mounted, nonilluminated sign not exceeding six (6) square feet.
8. The home occupation shall not generate customer related vehicular traffic substantially in excess of the normal anticipated residential traffic.
9. No more than twenty five percent (25%) of the total floor area of the principal building may be utilized by the home occupation. However, this regulation shall not apply to daycare services.
10. No equipment or materials associated with the home occupation shall be displayed or stored where visible from anywhere off the premises.
11. Music lessons, when operated as a home occupation shall be limited to two (2) students at any one time. Dance lessons, when operated as a home occupation shall be limited to no more than four (4) students at any one time.
12. Nothing herein shall be construed to allow the following businesses or occupations as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor's yards, junkyards, restaurants, rental outlets, vehicle repair shops, or massage parlors. However, a "massage therapist" licensed pursuant to the provisions of chapter 152C of the Iowa Code shall be permitted to engage in the practice of "massage therapy" as a home occupation, subject to the general home occupation regulations. Daycare for more than six (6) children shall not be allowed as a home occupation. Children regularly residing in the home shall not be counted in computing this limitation.

D. Accessory Structure Regulations: Accessory structures in the A and B zoning districts and on property used for residential purposes in the C-1 zoning district are subject to the following limitations:

1. Size And Number:
 - a. On lots of less than twelve thousand (12,000) square feet in the A and B residential zoning districts, there shall be no more than two (2) separate accessory buildings. The total floor area of both accessory buildings, combined, shall not exceed eight hundred (800) square feet.
 - b. On lots of twelve thousand (12,000) square feet or more, but not exceeding twenty five thousand (25,000) square feet which are used for residential purposes and are located in the A, B, B-1, and C-1 zoning districts established under this title there shall be no more than two (2) separate accessory buildings. The total floor area of both accessory buildings, combined, shall not exceed two thousand five hundred (2,500) square feet.
 - c. On all lots used for residential purposes in the A, B, B-1, and C-1 zoning districts, accessory buildings shall, in no event, occupy more than ten percent (10%) of the lot area or a building area of eight hundred (800) square feet, whichever is greater.
 - d. The foregoing provisions notwithstanding, on residential lots in the B and C-1 zoning districts, there may be constructed not more than two (2) accessory buildings of sufficient area to provide one vehicle storage space for each dwelling unit and one additional space of the same size for general storage.
 - e. On lots not included in the A or B residential zoning district, and not used for residential purposes, accessory structures are permitted subject to the development regulations applicable in the zoning district.
 - f. Lots used for residential purposes in the A, B, B-1, and C-1 zoning districts that contain more than twenty five thousand (25,000) square feet of area may have up to three (3) detached accessory buildings with a maximum combined floor area of five thousand (5,000) square feet.
2. Height: Accessory structures in the A, B, B-1, and C-1 zoning districts used for residential purposes are limited to a height of twenty feet (20'), except that in the case of a lot greater than twenty five thousand (25,000) square feet in area, accessory buildings may be constructed to a height of twenty five feet (25'). If an accessory building is of a height of greater than twenty feet (20'), the minimum setback requirements are fifteen feet (15') from an interior side lot line; fifteen feet (15') from a rear lot line; and twenty five feet (25') from a front lot line.
3. Site Development Regulations: The location of an accessory structure is subject to the setback requirements of the zoning district in which the accessory structure is located, except:
 - a. In the A, B and C-1 zoning districts, accessory buildings may be located within six feet (6') of the rear lot line.
 - b. On originally platted lots with a street frontage of fifty feet (50') or less, accessory buildings may be placed no less than two feet (2') from the side and rear lot lines. On such lots, the two foot (2') setback shall be measured from that portion of the accessory building closest to the lot line, including roof overhangs, eaves, gutters, or other features that project beyond the building wall.
 - c. Satellite dishes and fuel storage tanks are permitted accessory structures only in the rear yard and only when located at least six feet (6') from any property line.
4. Solar Collector Regulations: Solar collectors for the purpose of generating light, heat, or electrical energy are permitted as residential and commercial accessory structures, subject to the height and site development regulations in subsections D2 and D3 of this section. Solar collectors shall not be placed within any front yard setback area. The twenty foot (20') maximum height limitation does not apply to solar collectors mounted upon a conforming building or structure, so long as the highest point of the solar collector does not exceed ten feet (10') above the highest point of the building or structure. Solar collectors shall not be constructed, nor operated, so as to cause glare to be reflected on any existing residential structure, except that of the owner of the collector. Solar collectors shall not be considered "accessory buildings" subject to the limitation of subsection D1 of this section.
5. Outdoor Wood Furnaces: Outdoor wood furnaces, also known as outdoor wood boilers or hydronic heaters, are permitted as

residential accessory uses, subject to the following regulations:

- a. Outdoor wood furnaces shall be located in the rear yard only, at least fifty feet (50') from any property line.
- b. Each outdoor wood furnace shall be equipped with a chimney as specified by the manufacturer, which shall extend at least two feet (2') above the peak of any residence located within three hundred feet (300') of such outdoor wood furnace.
- c. Fuel burned in any outdoor wood furnace shall be only natural wood, wood pellets, corn products, biomass pellets, or other listed fuel specifically listed by the manufacturer's instructions. The following fuels are strictly prohibited:

Newspaper, cardboard, or any other paper with ink or dye products.

Plastic.

Rubber.

Rubbish or garbage.

Wood that has been painted, varnished, or coated with similar material, or has been pressure treated with preservatives and contains resins or glues. (Ord., 10-11-1990; 1991 Code; Ord. 407, 1-20-1992; Ord. 421, 8-17-1992; Ord. 516, 6-7-1999; Ord. 528, 4-3-2000; Ord. 718, 6-20-2011; Ord. 719, 6-20-2011; Ord. 747, 5-6-2013; Ord. 851, 10-7-2019)

9-11-9: WOOD STACKS AND COMPOSTING PILES:

Stacks of wood to be used in wood burning stoves or fireplaces are permitted in the rear or side yard only, and must be located no closer than six feet (6') from the nearest property line. Composting piles must also be located only in a rear or side yard and may not be closer than six feet (6') from a property line. (Ord., 10-11-1990; 1991 Code)

9-11-10: GROWING OF CERTAIN PLANTS AND GRASSES PERMITTED:

The growing of ivy, vines, vegetable gardens, flower gardens, grasses and other similar perennial and annuals as determined by the Building and Zoning Officer shall be permitted within the required yards in each of the zoning districts. (1991 Code)

9-11-11: MINIMUM REQUIREMENTS FOR RESIDENTIAL STRUCTURES:

All structures intended for residential occupancy placed, erected, assembled or constructed in the City after the effective date of this section shall meet and comply with the following minimum requirements:

A. Structure Size: Each such structure shall have a "main body" with a minimum exterior dimension of at least twenty two feet (22') measured from outside of the exterior walls.

B. Minimum Floor Area: A minimum floor area of not less than eight hundred (800) square feet. (In order to comply with the provisions of subsection A of this section and this subsection, the minimum exterior dimensions of a residential structure shall not be less than 22 feet by 36.5 feet. A structure may include porches, sunrooms, garages and "wings" of lesser dimensions and area, so long as the "main body" meets the minimum requirements.)

C. Foundation: All residential structures shall have a continuous and complete frost protected perimeter foundation, except that a perimeter foundation shall not be required for a manufactured home if a perimeter foundation is incompatible with the structural design of the manufactured home structure. For such a manufactured home, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site.

Foundation materials may be masonry, poured concrete, wood or metal and must extend below the normal frost line. The structure must be permanently attached to the foundation.

D. Exterior Wall And Roof Material:

1. Exterior wall covering shall be wood or masonry finish, vertical or horizontal grooved siding or lap siding, or the appearance thereof.

2. Roofing material shall be shingles (asphalt, fiberglass or wood), slate, ceramic, concrete or standing seam metal without exposed fasteners.

3. Smooth, unfinished, corrugated or ribbed metal with exposed fasteners or fiberglass shall not be used for exterior wall or roof covering.

4. Soffits, eaves, window and door trim (not exceeding 18 inches in width), roofs and coverings over bay and bow windows and doors may be smooth finished metal, vinyl or wood or unfinished metal, such as copper, customarily used for residential structure trim.

E. Ceiling Height: A minimum finished ceiling height of not less than seven and one-half feet (7¹/₂').

F. Entrance And Exit Doors: Not less than two (2) functional entrance and exit doors. (Ord. 408, 1-20-1992; Ord. 461, 6-5-1995; Ord. 821, 8-21-2017)

9-11-12: ACCESS STRUCTURES FOR PERSONS WITH DISABILITIES:

A. Access For Disabled Persons: Notwithstanding the limitations in this title establishing front, rear and side yard setbacks, and the restrictions contained in the definitions of "yard, front", "yard, rear" and "yard, side", access structures for persons with disabilities may be constructed and placed in front, rear or side yard setback areas pursuant to the provisions of this section.

B. Single-Family And Two-Family Residential Structures: Access structures for persons with disabilities to serve a single- family or two-family residential structure may include a platform with dimensions of not less than thirty six inches by thirty six inches (36" x 36") or greater than sixty inches by sixty inches (60" x 60") and may include a ramp at least thirty six inches (36") but not greater than forty two inches (42") in width (narrowest dimension) and of a slope not greater than a ratio of one to twelve (1:12) and may incorporate

handrails or other supports or assistive devices for persons with disabilities.

C. Other Structures: An access for persons with disabilities to serve a structure, other than those described in subsection A of this section, shall comply with the current applicable standards of the State of Iowa Building Code.

D. Access Requirements: Accesses for persons with disabilities as permitted under this section shall not be enclosed, nor shall they be covered with a roof, canopy or similar structure.

E. Exemptions To Provisions: The provisions of this section shall not apply to structures other than a single-family or two-family residential structure for which a building permit is issued after the effective date hereof. Such new structures shall provide for necessary or appropriate access for persons with disabilities without encroaching in any setback. (Ord. 444, 5-17-1993; Ord. 555, 9-4-2001)

9-11-13: SEXUALLY ORIENTED BUSINESS REGULATIONS:

A. No person shall cause or permit the establishment of any sexually oriented business within five hundred feet (500') from any other such business, any school, church, public park, public playground, public plaza, day nursery, daycare facility, nursery school, nursing home, residence or the boundary of any zoning district created under this Code.

B. The "establishment" of a "sexually oriented business" shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location.

C. All building openings, entries and windows and similar facilities shall be constructed, located, covered or screened in such a manner as to prevent a view into the interior of a building in which a sexually oriented business is conducted from any sidewalk, walkway, trail, street, or other public area. (Ord. 540, 12-18-2000)

9-11-14: SETBACK LINES ON CORNER LOTS:

In the case of a corner lot with frontage on two (2) or more public streets, each yard abutting a public street shall have the same setback requirements as a "front yard". However, the foregoing requirement notwithstanding, the "building line" of an originally platted lot fifty feet (50') or less in its narrowest dimension shall not be reduced to less than twenty four feet (24'). (For example, if an originally platted lot has a narrowest dimension of 46 feet and a 6 foot interior side lot setback is required, the street side setback shall be 16 feet, leaving a "building line" area of 24 feet in width.) (Ord. 722, 7-18-2011)

9-11-15: SITE DEVELOPMENT STANDARDS FOR MICROBREWERIES, MICRO-WINERY OR MICRO-DISTILLERY:

A. Each microbrewery, micro-winery or micro-distillery shall produce and sell alcoholic beverages in accordance with the laws and regulations of the State of Iowa Alcoholic Beverages Division and shall maintain current licenses and registrations with said agency; as well as the appropriate liquor license with the City of Spencer for those establishments selling alcoholic beverages.

B. No outdoor storage yards shall be permitted within the CBD Central Business District or R Riverfront zoning districts.

C. No drive-through lane or facilities are permitted.

D. All activities, production, storage, packaging, or distribution for any microbrewery, micro-winery or micro-distillery shall be wholly and completely included within an enclosed building (excluding chillers or refrigeration equipment). Such establishments may apply to the City of Spencer for an outdoor dining permit, but only for the sale and consumption of food and beverages on-site for the consumer.

E. The emission of odors, excessive noise, or other external negative effects upon the neighboring properties or to the public, deemed a nuisance by the City of Spencer, shall be prohibited. Establishments participating in outdoor service or sidewalk café dining shall be subject to the noise regulations according to Section 3-2-14 of this ordinance.

F. Off street parking shall be provided for any microbrewery, micro-winery or micro-distillery at one (1) off street parking space for every four (4) seats intended for the consumer, plus one (1) space for every two (2) employees. Such establishments located within the CBD district shall be exempt from the off street parking requirements.

G. Any microbrewery, micro-winery or micro-distillery establishment providing for off-street parking for customers shall have directional lighting that is intended to light the parking area, but be directed away from neighboring property owners.

H. Any microbrewery, micro-winery or micro-distillery establishment which is located adjacent to a residential use property may be required to install a fence, barrier, or other natural screening from such less intensive use, upon review of the site plan and permitting process.

I. If any facility is found to be in violation of these provisions, the owner or operator shall be given written notice of violation in accordance with the Spencer City Code and a reasonable length of time to correct the violation. Failure to correct the stated violation shall be subject to the penalty provisions of this ordinance and result in a municipal infraction with applicable fines. (Ord. 853, 10-4-2019)

CHAPTER 12

ADMINISTRATION AND PROCEDURES

SECTION:

9-12-1: Special Exception Procedure

9-12-2: Variance Procedure

9-12-3: Administrative Appeals

9-12-4: Amendment Procedure

9-12-5: Public Notice Procedure

9-12-6: Fee Schedule

9-12-7: Enforcement

9-12-8: Violations, Nuisance Per Se

9-12-1: SPECIAL EXCEPTION PROCEDURE:

The formulation and enactment of these Zoning Regulations is based upon the division of the City into districts, each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts but because of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the City. Such uses, on account of their peculiar location, need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

A. Jurisdiction: The Building and Zoning Officer ¹ shall be responsible for administration of the special exception procedure and the Board of Adjustment shall be responsible for the review, evaluation and action on all applications for a special exception use permit.

B. Application and Fee: Application for a special exception use permit shall be filed with the Building and Zoning Officer. The application shall include the following:

1. Name and address of the owner and applicant.
2. Address and legal description of the property.
3. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.
4. (Reserved)
5. A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the findings required for approval of the application.
6. Site plans, preliminary building elevations, preliminary improvement plans, and such additional maps and drawings, all dimensions sufficiently shown, as required to illustrate the following:
 - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - b. The location and dimensions of boundary lines, easements and required yards and setbacks.
 - c. The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and approximate location of existing buildings on abutting sites within fifty feet (50').
 - d. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs, and lighting.
 - e. The location of watercourses and drainage features.
 - f. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements.
 - g. The relationship of the site and proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.
7. Any applicable fee established by the City Council.

C. Public Hearing and Notice: The Board of Adjustment ² shall hold a public hearing on each application for a special exception use permit. Notice shall be given as prescribed in Section 9-12-5 of this Chapter. At the public hearing, the Board shall review the application and shall receive pertinent evidence concerning the proposed use and proposed conditions under which it would be operated or maintained.

D. Report of the Building and Zoning Officer: The Building and Zoning Officer shall review the application or proposal and shall prepare a report which shall be filed with the Board of Adjustment and available to the applicant at the time of the hearing.

E. Action by the Board of Adjustment: The Board of Adjustment shall act on the application not more than twenty (20) days following the closing of the public hearing on a special exception use permit. The Board may grant a special exception use permit as the permit was applied for, or in a modified form or subject to conditions, or may deny the application. The Board shall notify the applicant of its decision by mail.

F. Review and Evaluation Criteria: The Building and Zoning Officer and the Board shall review and evaluate special exception use permit applications using the following criteria:

1. Conformance with applicable regulations and standards established by the zoning regulations.
2. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, and access and circulation features.

3. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use.

4. Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals, and general welfare.

5. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.

6. Protection of persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

7. Location, lighting, and type of signs; and relation of signs to traffic control and adverse effects on adjacent properties.

8. Adequacy and convenience of off-street parking and loading facilities.

9. That adequate utilities, access roads, drainage, parking, and/or necessary facilities have been or will be provided.

10. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

11. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate firefighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.

12. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

13. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.

14. The use shall not involve any malodorous gas or matter which is discernible on any adjoining property.

15. The use shall not involve any pollution of the air by fly- ash, dust vapors, or other substance which is harmful to health, animals, vegetation or other property or which causes soiling, discomfort or irritation.

16. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

17. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

18. The use shall not interfere with the use or enjoyment of neighboring permitted uses. If such interference is found provisions may be made for increased setbacks (up to 500 feet) from property lines or screening of incompatible use by the use of fences or hedges.

19. The use shall not create a hazard to vehicular traffic. If any such hazard is determined, provisions may be taken to increase the required setback in regard to open air storage.

G. Conditions of Approval: The Board of Adjustment may establish conditions of approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls, and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications; regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements; establishment of development schedules or time limits for performance or completion; and such other conditions as the Board may deem necessary to insure compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Commission to make the findings required for approval of the permit.

H. Lapse of a Conditional Use Permit: Unless a longer time shall be specifically established as a condition of approval, a special exception use permit shall lapse and shall become void, one year following the date on which such permit became effective, unless prior to expiration, a building permit is issued and construction is commenced and diligently pursued toward completion, or a certificate of occupancy is issued for the use, or the site is occupied if no building permit or certificate of occupancy is required.

I. Revocation:

1. The issuance of special exception use permit by the Board shall entitle the owner to continue to operate the use so long as he remains in compliance with the terms and conditions of this Title and the terms, conditions, limitations, requirements and safeguards set forth in the special exception use permit, if such a special exception use permit is granted, does expressly grant to the City, for the enforcement of this Title, the power and authority to enter upon the premises at any reasonable time for the purpose of inspection and enforcement of the terms of this Title or of the terms of the special exception use permit.

2. In the event the owner or occupant of the property for which a special exception use permit has been issued, shall violate any provision of this Title or any term, condition, limitation, regulation or safeguards contained in the special exception use permit, the special exception use permit shall be and become null and void and the owner or occupant shall be deemed to be in violation of this Title and the City may proceed to enforce the provisions of this Title and the terms, conditions, limitations, and safeguards of the special exception use permit as provided in this Title. In addition to all other remedies provided herein, in the event that such special exception use permit shall be and become null and void, the compliance bond, if any, given by the owner under the provisions of this Title shall be forfeited.

J. Approval to Run With The Land: A special exception use permit granted pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the special exception use

Notes

1. See Title 8, Chapter 2 of this Code.
2. See Title 2, Chapter 2 of this Code.

9-12-2: VARIANCE PROCEDURE:

This procedure is intended to provide relief from the terms of the Zoning Title when, because of special circumstances applicable to the property, the strict application of the Zoning Title deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, and to ensure that any adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the district in which such property is located.

A. Application:

1. Application for a variance shall be filed with the Building and Zoning Officer. The application shall contain the following:
 - a. Name and address of the owner or applicant.
 - b. Address and legal description of the property.
 - c. If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner.
 - d. A statement describing the variance requested and the reasons why it complies with the criteria for variances provided in this Section.
 - e. (Reserved)
 - f. Site plans, preliminary building elevations, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the variance application:
 - (1) Existing and proposed location and arrangement of uses on the site, and on abutting sites within fifty feet (50').
 - (2) Existing and proposed site improvements, buildings and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - (3) Existing and proposed topography, grading landscaping, and screening, irrigation facilities and erosion control measures.
 - (4) Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvements related to or necessitated by the proposed use.
2. The Building and Zoning Officer may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a variance exists.
3. The application shall be accompanied by a fee established by the City Council.

B. Report of the Building and Zoning Officer: The Building and Zoning Officer shall review and prepare a report on the application. The report shall be filed with the Board of Adjustment and available to the applicant at the time of the public hearing.

C. Public Hearing and Notice: The Board of Adjustment shall hold a public hearing on each application for a variance. Notice shall be given as prescribed in Section 9-12-5 of this Chapter.

D. Action by the Board of Adjustment:

1. The Board of Adjustment shall act upon the application not more than twenty (20) days following the closing of the public hearing on a variance. The Board may grant a variance as the variance was applied for or in a modified form, or subject to conditions, or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Board may prescribe. The Board shall notify the applicant of its decision by mail.
2. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to grant a variance.

E. Findings:

1. Basic Criteria: The Board of Adjustment may grant a variance if it makes affirmative findings of fact on each of the following criteria:
 - a. The zoning regulations applicable to the property do not allow for a reasonable use.
 - b. The hardship for which the variance is requested is unique to the property and not general to the area in which the property is located.
 - c. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations of the zoning district in which the property is located.
 - d. The hardship for which the variance is requested did not result from actions of the applicant.

F. Lapse Of Variance: Unless a longer time period shall be specifically established as a condition of approval, a variance shall

lapse and shall become null and void, one year following the date on which the variance became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variance application, or a certificate of occupancy is issued for the site or structure which was the subject of the variance application, or the site is occupied if no building permit or certificate of occupancy is required.

G. Revocation: Upon violation of any applicable provision of this Title, or if granted subject to conditions, upon failure to comply with conditions, a variance shall be revoked upon notification to the owner of the use or property subject to the variance.

H. Variance To Run With Land Or Structure: Unless otherwise specified at the time a variance is granted, a variance shall run with the land and shall continue to be valid upon change of ownership of the site or structure to which it applies. (Ord., 10-11-1990; 1991 Code; Ord. 407, 1-20-1992)

9-12-3: ADMINISTRATIVE APPEALS:

This procedure is intended to afford review of administrative actions taken pursuant to the Zoning Title where such actions may be in error.

A. Appeals: Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, or board of the City affected by any administrative decision of the Building and Zoning Officer. Such appeal shall be taken within fifteen (15) days, as provided by the rules of the Board, by filing with the City Clerk a notice of appeal, which shall specify the grounds thereof. The Building and Zoning Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

B. Fee: The appeal shall be accompanied by a fee prescribed by the City Council.

C. Stay Of Proceedings: An appeal from the action of the Building and Zoning Officer shall stay all proceedings in furtherance of such action unless the Building and Zoning Officer certifies to the Board of Adjustment, after notice of appeal shall have been filed with the Building and Zoning Officer, that by reason of the facts stated in the certificate a stay would, in the Building and Zoning Officer's opinion, cause imminent peril to life or property. In the event the Building and Zoning Officer shall make and file such certificate, his/her action shall not be stayed otherwise than by a restraining order that may be granted by the Board of Adjustment, or by a court of record, upon application of the party aggrieved by the action of the Building and Zoning Officer, and after notice to him/her and upon due cause shown.

D. Public Hearing And Notice: The Board of Adjustment shall hold a public hearing on the appeal. Notice shall be given as prescribed in Section 9-12-5 of this Chapter. Upon the hearing of such appeal, any interested party may appear in person or by agent or attorney.

E. Action:

1. The Board of Adjustment shall act on the appeal within twenty (20) days following the closing of the public hearing. In exercising the powers set out in this Section, the Board may, in conformity with the provisions of this Title, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may take such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Building and Zoning Officer from whose action the appeal was taken. The Board shall notify the appellant of its decision by mail.

2. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirements, decision or determination of the Building and Zoning Officer, or to decide in favor of the appellant in any matter upon which it is required to pass under these provisions. (Ord., 10-11-1990; 1991 Code; Ord. 471, 8-5-1996)

9-12-4: AMENDMENT PROCEDURE:

The purpose of this procedure is to prescribe the manner in which changes shall be made in the text of the Zoning Regulations (text amendment) and the application of such regulations to property within the City by means of the Zoning Map (rezoning). This procedure is intended to conform to minimum requirements of State law and to afford opportunity for review of proposed changes by the public.

A. Jurisdiction: The city council shall have jurisdiction with respect to all text amendments and rezonings. The planning and zoning commission shall review and submit a recommendation to the city council on all text amendments and rezonings.

B. Initiation:

1. A text amendment may be initiated by the city planning and zoning commission, city council, or any citizen of Spencer.

2. A rezoning may be initiated by the city planning and zoning commission, by the city council or by the owners of property asking to be rezoned.

3. A rezoning initiated by the owner or the authorized agent of the owner of property by filing an application for a change in district boundaries (rezonings) as prescribed in this title. If the property for which rezoning is proposed is in more than one ownership, owners of fifty percent (50%) or the owner's authorized agents shall join in filing the application.

C. Application And Fee:

1. Application for rezoning initiated by a property owner shall be filed with the building and zoning officer on a form and shall include the following data and maps:

- a. Name and address of the owner and applicant.
- b. Address and legal description of the property.
- c. If the applicant is not the legal owner of the property, statement that the applicant is the authorized agent of the owner.
- d. An accurate map of the area proposed for rezoning and the surrounding area, showing existing streets and property lines,

and existing and proposed district boundaries. The map shall include an area determined by the building and zoning officer to be necessary to illustrate the relationship to and potential impact of the surrounding area within three hundred feet (300') from the property proposed for rezoning.

e. A property address list of each lot and the name and mailing address of the owner of each lot as shown by the records of Clay County, which is within three hundred feet (300') of the property proposed for rezoning and a map keyed to the ownership and address data. Such list shall be certified as accurate, according to the records of Clay County, by an appropriate representative of an abstracting or title company, attorney or registered land surveyor doing business in Spencer, Iowa.

2. The building and zoning officer may require additional information or maps if they are necessary to enable the commission to determine whether the change is consistent with the objectives of this title.

3. An application for rezoning initiated by a property owner shall be accompanied by a fee established by the city council.

4. A rezoning initiated by the planning and zoning commission ¹ or by the city council shall be pursuant to a motion of the commission or council. The building and zoning officer shall prepare the information prescribed in subsection C1 of this section, pursuant to the intent of the motion. No fee shall be applicable.

5. A text amendment initiated by the planning and zoning commission or by the city council shall be pursuant to a motion of the commission or council. The city attorney shall prepare a draft of an ordinance amending the text of the zoning regulations pursuant to the intent of the motion. No fee shall be applicable.

D. Public Hearing: Not more than thirty (30) days after filing of an application, the planning and zoning commission may hold a public hearing on an application for a text amendment, but is not required to do so, and shall hold a public hearing on any application for a change in the zoning classification of any property. Notice shall be given as prescribed in section 9-12-5 of this chapter. At a public hearing, the planning and zoning commission shall review the application, or the proposal, and shall receive pertinent evidence relating to consistency with the objectives of this title and the development policies of the city.

E. Action By The Planning And Zoning Commission: The planning and zoning commission shall act on the application not more than thirty (30) days following the closing of the public hearing. The planning and zoning commission shall determine whether, in its opinion, the change is consistent with the objectives of this title, and shall recommend to the city council that the text amendment or rezoning be enacted, be enacted in a modified form, or be rejected.

F. Action By The City Council:

1. Not more than thirty (30) days following receipt of the recommendation of the planning and zoning commission, the city council shall hold a public hearing on the text amendment or rezoning. Within thirty (30) days following the closing of a public hearing, the city council shall make a specific finding as to whether the change is consistent with the objectives of this title.

2. If the city council finds that the change is consistent, it shall introduce an ordinance amending the text of the zoning regulations or amending the zoning map, whichever is appropriate.

3. If the city council finds that the change is not consistent, it shall deny the application. The city council shall not modify a recommendation of the planning and zoning commission on a rezoning or change until it has requested and considered a report of the commission on the modification. Failure of the commission to report within thirty (30) days after receipt of the city council request shall be deemed concurrence.

G. Protest Provisions: Any ordinance enacted by the city council to reclassify property from one district to another district shall require a favorable vote of three-fifths ($\frac{3}{5}$) of all members of the city council, when a written protest against the rezoning is received from either of the following:

1. From persons owning twenty percent (20%) or more of the land included within the proposed rezoning.

2. From persons owning twenty percent (20%) or more of the land area adjoining and within two hundred feet (200') of the area proposed for rezoning, but excluding land outside the city.

H. New Application: Whenever a petition requesting an amendment, supplement or change of any regulations prescribed by this title has been denied by the city council, such petition cannot be renewed for one year. This provision, however, shall not prevent the city council or planning and zoning commission from acting on its own initiative in any case or at any time provided in this section. (Ord., 10-11-1990; 1991 Code; Ord. 407, 1-20-1992; Ord. 774, 12-1-2014)

Notes

¹ 1. See title 2, chapter 1 of this code.

9-12-5: PUBLIC NOTICE PROCEDURE:

The purpose of this section shall be to establish the minimum requirements for notice to be given with respect to procedural actions and public hearings required by the provisions of this title.

A. Notice of a special exception, variance or administrative appeal to be acted on by the board of adjustment shall be given as follows:

1. Notice shall be given by the city by posting at the site which is the subject of the application, continuously for at least seven (7) days prior to the date of the meeting at which the board of adjustment will consider the application.

2. Notice shall be given to the applicant of the time, date and place of the meeting at which the application will be considered by

ordinary United States mail, deposited for mailing not less than seven (7) days before the date of the meeting.

3. Notice shall also be given by ordinary mail to the owners of all property which share a common boundary with the tract which is the subject of the special exception, variance or administrative appeal. This notice shall be sent by the city to the owners of such adjacent property, as disclosed by the records of Clay County. Property separated from the subject property by streets or alleys shall not be considered "adjacent" properties and mailed notice to owners of such properties is not required. Notice required under this subsection shall be given by depositing the notice for mailing not less than seven (7) days before the date of the meeting.

B. Notice of a text amendment to the zoning code shall be given by publication of an appropriate legal notice in a newspaper of general circulation in the community at least seven (7) days, but not more than twenty (20) days prior to the date of the meeting at which the text amendment will be considered.

C. Notice of the consideration of an application for rezoning shall be given as follows:

1. Notice shall be given to the applicant by ordinary United States mail deposited not less than seven (7) days prior to the date for consideration of the application.

2. Notice shall be given to the owner of each lot within three hundred feet (300') of the subject property by ordinary United States mail, deposited not less than seven (7) days prior to the date of consideration.

3. Notice shall be given by publication of a legal notice in a newspaper of general circulation in the community at least seven (7) days, but not more than twenty (20) days prior to the date of the hearing.

D. Each such notice, whether by mail, publication or posting, shall include appropriate information pertaining to the general nature of the application, identifying the applicant, the subject property, the time and place of the meeting or hearing, and the address and telephone number of the office from which additional information may be obtained. (Ord., 10-11-1990; 1991 Code; Ord. 407, 1-20-1992; Ord. 440, 4-19-1993)

9-12-6: FEE SCHEDULE:

The city council shall establish, by resolution, fees to be applicable to applications, permits, and appeals pursuant to the zoning regulations and not subject to the text amendment. (Ord., 10-11-1990)

9-12-7: ENFORCEMENT:

The city council shall appoint a building and zoning officer to effect proper administration of this title. (Ord., 10-11-1990; 1991 Code)

9-12-8: VIOLATIONS, NUISANCE PER SE:

Any building or structure, including tents and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained or changed in violation of any provision of this title is prohibited and hereby declared to be a nuisance per se. (Ord., 10-11-1990)

CHAPTER 13

SUBDIVISIONS

SECTION:

9-13-1: Definitions

9-13-2: Approval; Acceptance

9-13-2A: Subdivisions Located Wholly Or Partially Within Two Statute Miles Of The Corporate Boundaries Of The City

9-13-3: Information Required; Preliminary; Final Plat

9-13-4: Minimum Standards Of Design; Development

9-13-5: Enforcement

9-13-6: Miscellaneous Provisions

9-13-7: State Platting Requirements Adopted

9-13-8: Building Permit Prohibition

9-13-1: DEFINITIONS:

For the purpose of this Chapter, certain terms and words are herewith defined as follows:

LOT: A portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

METES AND BOUNDS: The method used to describe a tract of land so that it can be recorded in the County Recorder's office, as contrasted with the description of a part of a properly approved and recorded subdivision plat by the lot and block number.

PLAT: A map, drawing or chart on which subdivider's plan of the subdivision is presented and which he submits for the approval and intends in final form to record.

STREET WIDTH: That horizontal distance between property lines.

SUBDIVISION: Shall mean any of the following:

- A. A division of any parcel of land of any area of more than one acre into two (2) or more lots for the purpose of transfer of ownership or building development.
- B. A division of any parcel of land into three (3) or more lots for the purpose of transfer of ownership or building development.
- C. The establishment or dedication of a road, street, alley or other dedication to the public.

The foregoing provisions of the definition of SUBDIVISION notwithstanding, the following acts shall not constitute a subdivision and shall not require a subdivision plat, but may be accomplished by a plat of survey:

1. A property line adjustment involving the increase in area of a parcel through the decrease in area of an adjacent parcel, provided that no non-conforming lot is created in conflict with any provisions of Title 9 of the Spencer City Code, and providing that a portion of each resulting parcel not less than sixty feet (60') in dimension abuts a public street or a public way.
2. A division of a parcel which does not involve the dedication of any public right-of-way or any extension of infrastructure or utilities where a portion of each resulting parcel not less than sixty feet (60') in dimension abuts a public street or a public way. (Ord. 103, 7-16-1972; Ord. 361, 7-5-1988; Ord. 859, 7-6-2020)

9-13-2: APPROVAL; ACCEPTANCE:

A. Preliminary Approval By City Planning And Zoning Commission: Whenever the owner of any tract or parcel of land wholly or partially within the corporate limits of the City desires or is required to make a subdivision of the tract, the owner shall cause to be prepared a preliminary plat of the proposed subdivision and shall submit four (4) copies of said preliminary plat which shall contain the data and information outlined in Section 9-13-3 of this Chapter and other pertinent information to the Planning and Zoning Commission for preliminary study and approval. The Planning and Zoning Commission shall study the preliminary plat to determine if it conforms with the minimum standards and requirements as outlined in this Chapter and shall approve or reject the preliminary plat within thirty (30) days after the date of submission.

B. Preliminary Plat Submitted: Following action by the Planning and Zoning Commission on the preliminary plat, the preliminary plat shall be submitted to the City Council for review.

C. Proposed Plan Of Entire Area: When a tract of land is proposed for subdivision that is a part of a larger logical subdivision unit in relation to the City as a whole, the Planning and Zoning Commission may cause to be prepared a proposed plan of the entire area, such plan to be used by the Commission and the Council as an aid in considering proposed subdivisions.

D. Submit Final Plat: The owner shall submit to the Planning and Zoning Commission four (4) copies of the final plat of the subdivision which shall contain all the information required in this Chapter. The Planning and Zoning Commission shall approve or reject the final plat within thirty (30) days of its submission.

E. Approval Of The City Council: After action by the Planning and Zoning Commission on the final plat, the final plat shall be submitted to the Council for consideration of final approval and for acceptance of all streets, alleyways, easements, parks or other areas preserved or dedicated to the public. The Council may either reject or approve the final plat, but if the final plat has not been approved by the Planning and Zoning Commission, the Council may approve the final plat only upon a three-fourths ($\frac{3}{4}$) vote of all members of the Council. (Ord. 103, 7-16-1972; Ord. 361, 7-5-1988; 1991 Code)

9-13-2A: SUBDIVISIONS LOCATED WHOLLY OR PARTIALLY WITHIN TWO STATUTE MILES OF THE CORPORATE BOUNDARIES OF THE CITY:

Pursuant to the provisions of section 354.9 of the Iowa Code, the provisions of this Chapter apply to any subdivision, as defined herein, of property which is wholly or partially included in an area which is within two (2) statute miles of the corporate boundaries of the City.

Pursuant to this Section, and section 354.9 of the Iowa Code, whenever the owner of any tract or parcel of land which is wholly or partially within two (2) statute miles of the corporate limits of the City desires or is required to make a subdivision of the tract, the owner shall comply with all provisions of this Chapter. (Ord. 438, 3-15-1993; Ord. 471, 8-5-1996)

9-13-3: INFORMATION REQUIRED; PRELIMINARY; FINAL PLAT:

A. Preliminary Plat: In seeking to subdivide land, the owner shall submit four (4) copies of a preliminary plat to the Planning and Zoning Commission before the submission of the final plat. The preliminary plat shall be drawn to scale and shall show the proposed location and width of streets, lot lines, and dimensions of each proposed lot. The plat shall also show surrounding streets, lots, water sources, sewers, and water mains. The scale, of such preliminary plats shall not be less than one inch to one hundred feet (1" = 100'). The developer shall provide a topographical map of the property showing contour intervals of not more than five feet (5') or as the Commission may require. All elevations shall be referenced to City datum. Any plat not containing all information specified above shall not be considered by the Planning and Zoning Commission.

B. Final Plat: A final plat on polyester material and three (3) prints thereof, and the plat on electronic media compatible with the City's computer hardware and software, shall be submitted to the City. It shall show:

1. The boundaries of the property.
2. The lines of all proposed streets and alleyways, with their widths and names and any other areas intended to be dedicated to public use; the names of the streets shall be a continuation of the existing method of naming streets in the City.
3. The lines of adjoining streets and alleys, with their widths and names.
4. All lot lines and easements with dimensions, and all block corners properly monumented. Monuments shall be made of concrete or stone and shall be a minimum size of four inches by four inches by thirty six inches (4" x 4" x 36"), shall be placed vertically to a level of approximately thirty six inches (36"), level with the surface at finished grade. Monuments shall be cross-scored with a copper dowel or iron bar to mark the exact line or lines.

5. All dimensions, both linear and angular, necessary for locating boundaries of the subdivided area or of the lots, streets, alleys, easement, and any other similar public or private uses. The linear dimensions shall be expressed in feet and decimals of a foot.

6. Radii arcs and chords, points of tangency, central angles for all circilinear streets, and radii for all rounded corners.

7. All monuments, together with their description.

8. Title and description of property subdivided showing its location and extent, points of compass, scale of plat, classification of property under zoning law, and name of subdivider and of licensed land surveyor staking the lots.

9. Profiles of final street grades.

C. Additional Material: The subdivider shall also file with the final plat, for submission to the Planning and Zoning Commission, all the acknowledgements, certificates and opinions as required by law, as well as statement of all private restrictions. (Ord. 103, 7-16-1962; Ord. 226, 7-2-1979; Ord. 361, 7-5-1988; 1991 Code; Ord. 423, 8-17-1992; Ord. 471, 8-5-1996)

9-13-4: MINIMUM STANDARDS OF DESIGN; DEVELOPMENT:

A. Approval: No preliminary or final plat of a subdivision shall be approved by either the Planning and Zoning Commission or by the Council unless it conforms with the minimum standards and requirements contained in this Chapter.

B. Acre Subdivision: Whenever the area is divided into lots containing one or more acres and there are indications that such lots will eventually be resubdivided into small building lots, consideration must be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots.

C. Relation To Adjoining Street System: The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projections where adjoining property is not subdivided) insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street width established in this Code. The street and alley arrangement must also be such as to not cause hardship to owners of adjoining property when they plat their land and seek to provide for convenient access. Whenever there exists a dedicated half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be dedicated.

D. Street Width:

1. The widths for major street shall not be less than sixty six feet (66').

2. The minimum width for minor street shall be sixty feet (60').

E. Alleys: The minimum width of an alley in a residential block shall be sixteen feet (16'). (Alleys are not recommended for residential districts except under unusual condition.)

F. Easements: Public utility easements not less than ten feet (10') in width shall be provided along and adjacent to each street or alley included in the plat and all such utilities will be placed in these easements whenever practical. Such additional easements as may be necessary and appropriate shall also be included in a plat.

G. Length In Blocks: No block shall be longer than nine hundred feet (900') between street lines, except when special conditions make a longer block more desirable.

H. Width Of Blocks: The width of blocks shall not be more than three hundred feet (300'), except that when such requirements would entail unusual and substantial difficulties or hardships or when it is desired to provide a development containing large residential lots, the Planning and Zoning Commission and the Council may modify such requirements and allow the subdivider to plat blocks of other widths.

I. Terminal Streets: Terminal residential streets or cul-de-sacs may be established where necessary to afford access to all lots. No terminal street may be platted longer than five hundred feet (500') and all such terminal streets shall terminate in a circular open space having a minimum diameter of one hundred feet (100').

J. Lot Lines: All side lines of lots shall be at right angles to straight street lines, or radial to curved street lines, unless a variation of this rule will give a better street and lot plan. Lots with double frontage shall be avoided.

K. Size And Shape Of Lots: The minimum dimensions for rectangular lots shall be sixty six feet (66') in width, the minimum dimensions for a cul-de-sac or curved lots shall be sixty feet (60') in width at the building line, and in no case shall a lot that is to be used for residential purposes contain less than is required by the lot area regulation of the zoning district in which the property is located. A portion of each platted lot not less than sixty six feet (66') in dimension shall abut a public street or public way.

L. Corner Lots:

1. All corner lots shall have extra widths sufficient to permit the maintenance of building lines on both the front and side streets as required by the applicable zoning provisions.

2. Lots on major street intersections and at all other points likely to be dangerous shall have a radius of not less than fifteen feet (15') at the street corner; on business lots a chord may be substituted for the circular arc.

M. Easements Along Streams: Whenever any stream or important surface water course is located in an area that is being subdivided, the subdivider shall make adequate provision for straightening or widening the channel so that it will properly carry surface water and shall provide and dedicate to the City an easement along each side of the stream, which easement shall be for the purpose of widening, improving or protecting the stream. The width of such easement shall not be less than ten feet (10') from each bank of the stream, and the total width of the easement shall be adequate to provide any necessary channel relocations and straightenings.

N. Improvements: It is the determination of the City Council, in furtherance of the health, safety and general welfare of the citizens of Spencer, that all new subdivisions shall have the benefit, where feasible, of the following improvements: integral monolithic paved concrete street and curb, sanitary and storm sewers, water mains and fire hydrants, electric service and street lighting, and access to parks and green areas. Therefore, no final plat of any subdivision shall be finally approved until one or more of the following alternative methods of ensuring the construction of required improvements has been accomplished.

1. Construction of said improvements in accordance with City specifications prior to approval of the final plat.

2. In regard to integral monolithic paved concrete street and curb, sanitary and storm sewers, and water mains and fire hydrants, the developer may meet the requirements for final plat approval by posting with the City a surety bond or cash in a supervised escrow account conditioned upon construction of all required improvements by a date approved by the Council and stated in said surety bond or escrow agreement. The amount of the surety bond or escrow deposit shall not be less than one hundred ten percent (110%) of the estimated cost of the uncompleted improvements. If the improvements are not completed within the specified time, the City may require performance by the surety or use the funds deposited in escrow, or any necessary portion thereof, to complete construction of the improvements. The Council shall have the authority and discretion to establish different dates for the construction of each of the improvements.

3. Subject to the approval of the Council, in its discretion, the City and the developer may enter into a development agreement which may provide for the construction and installation of integral monolithic paved concrete street and curb, sanitary and storm sewers, and water mains and fire hydrants in the development by the City and which may provide for the collection of utility fees, connection fees, or the imposition of special assessments to recover or offset all or part of the cost of the improvements constructed or installed by the City.

In evaluating any such proposed development agreement, the City Council shall consider the following factors:

- a. The benefit to the City of the proposed development.
- b. The apparent need or demand for the development proposed.
- c. The cost and feasibility of extending sanitary sewer, storm sewer and water mains to serve the development.
- d. The likelihood that the City will recover its costs or receive benefit from utility charges, connection fees, special assessments, or increased property tax revenue as the result of the development.
- e. The quality and extent of security provided to the City that the costs to be incurred by the City will be recovered or that commensurate benefits will be received.
- f. Any other relevant factors.

4. In regard to electrical service and street lighting, the developer may provide to the City the certification of the provider of electrical service to the subdivision establishing that appropriate arrangements have been made between the developer and the provider of electrical service such that the provider of electrical service to the subdivision guarantees and warrants that necessary electrical services and street lighting will be constructed in the subdivision by a date stated in the certification and approved by the Council.

5. The regulations and standards for the improvements required herein shall be as follows:

- a. Grading And Improvements Of Streets: Integral monolithic paved concrete street and curb constructed in any subdivision shall conform to the City's specifications throughout the subdivision.
- b. Sewers: A lateral connection to the sanitary sewer main shall be extended to each lot line. Storm sewer inlets shall be designed and located as needed to serve the subdivision. Installations of sanitary and storm sewers shall be in accordance with the standards and specifications of the city. The certification of a licensed engineer that sewer improvements have been completed pursuant to city specifications shall be filed with the city upon completion of the improvements.
- c. Water Mains And Fire Hydrants: The development shall cause water mains, fire hydrants and appurtenances to be installed. A lateral connection to the water main shall be extended to each lot line. Such installments shall be in accordance with the standards and specifications of the water department of the Spencer municipal utilities. The location of all fire hydrants shall be approved by the water department of the Spencer municipal utilities. The certification of a licensed engineer that water mains, service lines and hydrants have been completed pursuant to utilities' specifications shall be filed with the city upon completion of the improvements.
- d. Electrical Service And Street Lighting: The developer shall install electrical service to each lot in the subdivision and shall provide for street lighting. Such electrical service and street lighting shall be designed, constructed and installed pursuant to the standards and regulations established by the board of trustees of the Spencer municipal utilities, or if electrical service is to be provided by an entity other than Spencer municipal utilities, according to the standards and regulations imposed by the superintendent of public works.
- e. Inspection During Installation: Periodic inspection during the installation and construction of improvements shall be made by the superintendent of public works, or his duly authorized agent, in order to assure conformity with the approved plans and specifications. The developer shall notify the proper administrative officer when each phase of the installation is completed and ready for inspection.

6. Parks And Recreational Areas: As convenient access to parks and recreational areas and the preservation of "green" space is a significant benefit to owners and occupants of residential properties, each proprietor of a plat located in the A or B residential zoning district of the city shall consider including parks, recreational areas and green space in a proposed plat for the benefit of owners and occupants of property in the subdivision.

Such areas may be established and maintained by the proprietor, by an organization or association of property owners in the subdivision, or may, upon approval of the city park board, be dedicated to and accepted by the city.

O. Trails: The proprietor of a subdivision plat shall consult the current master plan maintained by the city for the development of trails in the city. If the master plan indicates the planned development of trails in the area to be platted, the plat shall include a ten foot (10') expansion of major street right of way to accommodate the future placement of a trail. The proprietor of a plat shall include, in the application for plat approval, a statement confirming that the city's master trail plans have been considered and that the plat includes additional right of way for trails, if required, consistent with the master plan.

P. Stormwater Management:

1. Definitions: For purposes of this subsection, the following new definitions are adopted:

EROSION: The detachment, transportation, and deposition of soil particles by water or wind. Sheet erosion, rill erosion, gully erosion, lake bank and stream bank erosion and streambed erosion are common types of erosion that create sediment laden runoff, which moves sediment to a point of deposition down gradient from its point of origin.

IMPERVIOUS SURFACES: Surfaces through which water cannot penetrate. Impervious surfaces are mainly constructed surfaces - rooftops, sidewalks, patios, roads and parking lots - covered by impenetrable materials such as asphalt, concrete, brick, and stone. These materials seal surfaces, repel water and prevent precipitation and meltwater from infiltrating soils. Soils compacted by urban development are also highly impervious.

LAND DISTURBING ACTIVITY: Any earth movements that alter the surface of the land that may result in soil erosion from wind and water and the movement of sediment and sediment related pollutants off site; including, but not limited to, grading, topsoil removal, road or bank cutting, waterway construction or enlargement, excavation, filling or stripping of vegetation, or creation of a new subdivision. The following activities are excluded from this definition:

- a. Excavation, filling or a combination thereof involving less than three (3) cubic yards and tilling, vegetation and/or tree cover removal from an area less than one thousand (1,000) square feet.
- b. Tilling, planting or harvesting of agricultural, horticultural or forest crops.
- c. Minor activities such as residential gardening, landscaping, repairs and maintenance work.
- d. Installation of public utility lines and connections, fence posts, signposts, telephone poles, electric poles and other kinds of posts or poles.
- e. Installing septic tanks and drainage fields, unless these are to serve a building whose construction is a land disturbing activity.
- f. Emergency work to protect life or property.
- g. Construction, relocation, alteration or maintenance of public improvements by a public body.

LOW IMPACT DEVELOPMENT (LID): Stormwater control strategies that combine resource conservation and a hydrologically functional site design with pollution prevention measures to reduce development impacts to better replicate natural watershed hydrology and water quality. Using several strategies, LID controls runoff discharge, volume, frequency and quality to mimic predevelopment runoff conditions. Stormwater best management practice (BMP) techniques and/or structures, as defined in the "Iowa Stormwater Management Manual", shall be incorporated to remove eighty percent (80%) of the total suspended solids (TSS). These development practices shall address water quality volume of 1.25 inches of rainfall in a twenty four (24) hour period. Examples of low impact development techniques include:

Better site design

Bioretention cells

Bioswales

Rain gardens

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES): Section 402 of the U.S. clean water act contains the national pollutant discharge elimination system (NPDES) regulations. The key aspect of this section is that any land disturbing activity that impacts one acre or more is required to obtain an NPDES permit from DNR. The application process requires that the applicant certify that an adequate stormwater pollution prevention plan (SWPPP) has been developed for the site.

PERMEABLE PAVEMENT: A breathable pavement surface that allows water to flow freely through it, filtering water as it flows and draining into an underlying bedding of additional filters.

PERVIOUS SURFACES: A ground cover through which water can penetrate at a rate comparable to that of water through undisturbed soils. Examples include turf systems and pervious pavers:

- a. Concrete Pavers - Uni Eco-Stone: Interlocking concrete paving blocks separated by holes (pores) that are filled with gravel. This grid paving system is designed for commercial and residential vehicle load applications. Drainage openings in the paving surface allow stormwater to infiltrate.
- b. Concrete (Open Cell) Pavers - Turfgrid: The Turfgrid paving system offers an open cell concrete structure with forty percent (40%) open area designed to be planted with turf. The system protects turf roots and soil from compaction due to foot and vehicle traffic.
- c. Recycled Plastic Pavers - Grasspave: Grasspave is similar to the Turfgrid system (above) which provides for turf planting, but is manufactured with one hundred percent (100%) recycled plastic. This paving system offers load bearing strength while protecting vegetation root systems from compaction. Open cells enable root development and storage capacity for rainfall from storm events.

SEDIMENT: Detached particles of soil that move via an erosion process.

SILT SCREEN: A fencing screen material manufactured for the purpose of capturing and retaining soil, silt and sediment from water and gravity runoff from a land slope. Silt screen supported by posts to form a continuous soil, silt or sediment barrier is called a silt screen fence.

SILTATION: The deposition of sediment moving via the erosion process. Deposition is usually considered to occur off site from where the erosion that is generating the sediment is occurring.

2. Stormwater Management: For all new subdivisions which include property within zoning districts, CBD, C-1, C-2, D, E or MH, a stormwater management plan compliant with this subsection shall be required, implemented and followed. The following guidelines apply:

- a. The stormwater management plan shall include, but not be limited to, the following: proposed final grading conditions with explanation of how adjacent areas will be impacted by grading and compaction, current natural drainage and how it will be impacted after completion, vegetative map with existing vegetation before and after construction and stormwater management system to be used during and after construction.
- b. The plan shall provide for management of water quality for construction activities and for postconstruction conditions.
- c. The plan shall minimize the impact of stormwater on adjacent and downstream properties.
- d. The plan shall be developed to comply with the "Iowa Stormwater Management Manual" and shall use a design rainfall event of 1.25 inches in twenty four (24) hours for computing water quality volume (WQv).
- e. Low impact development is encouraged, and should be incorporated into the plan unless the site is not suitable in supporting low impact development practices.
- f. It is recommended that thirty percent (30%) of the original open space of the property be designed to manage stormwater.
- g. The use of impervious surfaces should be mitigated with low impact development designs to assist in stormwater management on the property. The use of pervious surfaces should be emphasized. The use of pervious surfaces for parking to enhance low impact development stormwater management is encouraged. For impervious parking areas, as a rule of thumb, an area equal to ten percent (10%) of the parking area is recommended, to incorporate rain gardens, bioretention cells or grass swale conveyances.
- h. This stormwater management plan shall be designed by a licensed engineer.
- i. For lots exceeding three (3) acres, the postdevelopment runoff rate resulting from 1.25 inches of rain in a twenty four (24) hour period shall not exceed one hundred twenty five percent (125%) of the predevelopment runoff rate; for lots not exceeding three (3) acres, the postdevelopment runoff rate for rainfall not exceeding 1.25 inches of rain in a twenty four (24) hour period shall not exceed two hundred percent (200%) of the predevelopment runoff rate.

3. Consultant: The city of Spencer may contract with a qualified consulting engineer to review, comment, and advise the city as to any stormwater management plan that has been submitted for review. All costs associated with such a consultant shall be borne by the developer. (Ord. 97, 6-19-1961; Ord. 103, 7-16-1962; Ord. 206, 8-1-1977; Ord. 211, 11-7-1977; Ord. 218, 7-3-1978; Ord. 219, 8-21-1978; Ord. 226, 7-2-1979; Ord. 361, 7-5-1988; 1991 Code; Ord. 427, 9-8-1992; Ord. 471, 8-5-1996; Ord. 546, 3-19-2001; Ord. 572, 7-1-2002; Ord. 616, 12-6-2004; Ord. 734, 11-21-2011)

9-13-5: ENFORCEMENT:

- A. Filing Of Plat: No plat of any subdivision shall be entitled to record in the county recorder's office or have any validity until it shall have been approved in the manner prescribed herein.
- B. Public Improvements: The city council shall not permit any public improvements over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted unless such subdivision or street has been approved in accordance with the provisions contained herein.
- C. Penalties: Any person violating any provision of this chapter, or failing to comply with the provisions thereon, shall be deemed guilty of a misdemeanor.
- D. Proceedings To Prevent Violations: In case of any violation or attempted violation of the provisions of this chapter, the city council, in addition to other remedies, may institute any appropriate action or proceeding to prevent such violation or attempted violation, to refrain, correct or abate such violation or attempted violation or to prevent any act which would constitute such violation. (Ord. 103, 7-16-1962)

9-13-6: MISCELLANEOUS PROVISIONS:

- A. Variations: Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the foregoing sections would result in real difficulties and substantial hardships, the city council may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but at the same time the public welfare and interests of the city shall be protected and the general intent and spirit of this chapter shall be preserved. (Ord. 103, 7-16-1962; Ord. 226, 7-2-1979)

9-13-7: STATE PLATTING REQUIREMENTS ADOPTED:

The city hereby expressly adopts the restrictions and provisions of Iowa Code chapter 354 entitled "plattling - division and subdivision of land". (Ord. 361, 7-5-1988; Ord. 471, 8-5-1996)

9-13-8: BUILDING PERMIT PROHIBITION:

No building permit or certificate of occupancy shall be issued for any lot created after July 1, 1988, which is required to be platted in accordance with the provisions of this chapter and which has not been so platted. (Ord. 361, 7-5-1988)

CHAPTER 14

PLANNED UNIT RESIDENTIAL DEVELOPMENT

SECTION:

9-14-1: Purpose

9-14-2: Location

9-14-3: Use Regulations; Permitted Uses

9-14-4: Layout and Design Requirements

9-14-5: Application

9-14-6: Procedure

9-14-7: Site Size

9-14-1: PURPOSE:

A planned unit residential development (PURD) is intended to encourage a more innovative approach to the development of residential land by permitting flexibility in design, placement of buildings and the use of open spaces, while at the same time retaining substantially the same population density and area coverage permitted in the district in which the project is located. (Ord. 135, 4-5-71)

9-14-2: LOCATION:

Planned unit residential developments (PURDs) shall be located in either an A residence district or a B multiple residence district and shall be subject to existing zoning and platting ordinances. (Ord. 135, 4-5-71)

9-14-3: USE REGULATIONS; PERMITTED USES:

A. Permitted Uses:

1. One, two (2) and multiple dwellings.
2. Neighborhood retail uses and those uses permitted in the C-1 Commercial District may be specifically and selectively authorized as to type and size only when integrated by design as an accessory element of the project, provided the development is planned for more than one hundred fifty (150) dwelling units.

B. Use Control:

1. In a planned unit residential development, the zoning of areas for commercial uses shall not become effective until one-half ($\frac{1}{2}$) of the total number of dwelling units planned is completed.
2. In a planned unit residential development there shall be a minimum of five percent (5%) of the total area of the planned area development dedicated or reserved as usable common open space land. Common open space lands shall be clearly designated on the plan as to character of use and development but shall not include:
 - a. Areas reserved for the exclusive use or benefit of an individual tenant or owner.
 - b. Dedicated streets, alleys and other public rights of way.
 - c. Vehicular drives, parking, loading and storage areas. (Ord. 135, 4-5-71; Ord. 858, 7-6-2020)

9-14-4: LAYOUT AND DESIGN REQUIREMENTS:

When necessary to insure compatibility of buildings and uses with each other and with off-site properties, the City Planning and Zoning Commission may recommend and the City Council may specify modification of such regulations, requirements and standards in the PURD district. Subject to the foregoing, the following minimum standards are established:

- A. Minimum Lot Area: 4,000 square feet.
- B. Minimum Lot Width: 40 feet.
- C. Maximum Height: 45 feet.
- D. Front Yard Setback: 20 feet.
- E. Side Yard Setback: 5 feet.
- F. Rear Yard Setback: 15 feet.
- G. Maximum Lot Coverage: Eighty Percent (80%).
- H. Accessory Buildings: Detached accessory buildings on a small lot size may be permitted up to 2 feet to the side and rear property lines, except no such building or structure, except for fences, shall be placed over any permanent easement.
- I. Density of Dwelling Units: Within the PURD district to have the ability to combine single and multiple family residential dwelling units, the density for single family dwellings may not exceed one (1) per 4,000 SF in the net development area. For multiple family residential developments, the overall density shall not exceed one (1) dwelling unit per 2,000 SF in the net development area. The

net development area shall be defined as that area remaining after subtracting those portions of the site set aside for non-residential uses (i.e. streets, parks, schools, commercial, etc.).

J. Off-Street Parking: The total required off-street parking facilities shall not be less than the sum of the required parking facilities for the various uses computed separately. (Ord. 858, 7-6-2020)

9-14-5: APPLICATION:

A. Filing of Application: An application to establish a planned unit residential development project shall be filed by:

1. The owner or owners having title to all of the property in the area proposed for the planned unit development; or
2. The City Planning and Zoning Commission.

B. Site Plan: A map shall be drawn to show dimensions of open space, public dedications and the horizontal and vertical dimensions of all proposed buildings and structures.

The proposed plan shall be consistent with the interest and purposes of this Chapter to promote public health, safety and general welfare.

C. Statement: An explanatory statement of the general purpose of the project shall accompany the application. The statement shall supplement the map with narrative information. The adoption of the text of the statement specifying the particular nonresidential uses shall constitute a limitation to those specific uses.

D. Certification: Preliminary submission for PURDs shall bear the seal of registration of an architect, engineer, landscape architect or planner who is registered in the State of Iowa at the time of application. (Ord. 135, 4-5-71)

9-14-6: PROCEDURE:

A. Preliminary Plan: The approval of the planned unit development shall be by the City Council upon recommendation of the Planning and Zoning Commission. A preliminary development plan shall be submitted to the Commission for its review and recommendation. The Commission shall then advise the City Council that such plans do or do not comply with the development policies of the City. A preliminary plan submitted for approval shall have Council action within ninety (90) days after the date of submission.

Preliminary approval by the Council shall be binding as to the general intent and apportionment of land and improvements, but shall not be construed to render inflexible the ultimate design, specific uses or final plan of the project.

B. Final Development Plan: The applicant shall, within one year of the date of preliminary plan approval by the Council, submit a final development plan identifying the location and extent of uses and improvements as authorized in the approved preliminary plan and complying with any stipulations of the Council.

C. Noncompletion: Upon the written notice of abandonment or the expiration of three (3) years from the final approval by the City Council of a planned unit development which has not by then been completed, the approval may be terminated by the Council after having given due consideration to the preservation of open space to that part of the project which has already been developed. (Ord. 135, 4-5-71)

9-14-7: SITE SIZE:

A planned unit development project in a residential district shall contain an area of not less than one (1) acre. (Ord. 135, 4-5-71; Ord. 858, 7-6-2020)

CHAPTER 15

AIRPORT HEIGHT REGULATIONS

SECTION:

9-15-1: Purpose And Title

9-15-2: Definitions

9-15-3: Airport Height Zones And Airspace Height Limitations

9-15-4: Use Restrictions

9-15-5: Lighting

9-15-6: Variances

9-15-7: Judicial Review

9-15-8: Severability

9-15-9: Effective Date

9-15-10: Nonconforming Uses

9-15-1: PURPOSE AND TITLE:

This chapter shall be known and cited as the *NORTHWEST IOWA REGIONAL AIRPORT HEIGHT REGULATIONS ORDINANCE*.

This chapter is adopted in order to:

- A. Prevent the establishment of airspace obstructions in airport approaches to the Northwest Iowa regional airport and surrounding areas.
- B. Minimize potential dangers from, and conflicts with, the use of aircraft at the Northwest Iowa regional airport.
- C. Address federal aviation regulations ("FAR") part 77 and all other applicable federal and states laws regulating hazards to air navigation. (Ord. 697, 3-1-2010)

9-15-2: DEFINITIONS:

As used in this chapter, unless the context otherwise requires, the following terms shall be defined:

AIRPORT: The Northwest Iowa regional airport.

AIRPORT ELEVATION: One thousand three hundred forty and seven- tenths feet (1,340.7') above mean sea level.

AIRPORT HAZARD: Any structure or object of natural growth located on or in the vicinity of a public airport, or any use or land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

AIRPORT PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in part 77 of the federal aviation regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

AIRSPACE HEIGHT MEASUREMENT: For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

BUILDING RESTRICTION LINE (BRL): A line which identifies suitable building area locations on airports. The BRL should encompass the runway protection zones, the runway object free area, the runway visibility zones, NAVAID critical areas required for terminal instrument procedures, and areas addressed under 14 CFR part 77(C) (airport imaginary surfaces) to appoint where the surfaces obtain a height of at least thirty five feet (35') above the primary surface.

DECISION HEIGHT: The height at which a decision must be made, during an ILS instrument approach, to either continue the approach or to execute a missed approach.

INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.

MINIMUM DESCENT ALTITUDE: The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle to land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

MINIMUM EN ROUTE ALTITUDE: The altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

MINIMUM OBSTRUCTION CLEARANCE ALTITUDE: The specified altitude in effect between radio fixes on VOR airways, off airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty two (22) miles of a VOR.

NONCONFORMING USE: Any preexisting structure, object of natural growth, or use of land that is inconsistent with the provisions of this chapter or amendments hereto.

NOTICE TO THE FAA OF THE PROPOSED CONSTRUCTION: 14 CFR part 77, objects affecting navigable airspace, requires persons proposing any construction or alteration described in 14 CFR section 77.13(A) to give thirty (30) days' notice to the FAA of their intent. This includes any construction or alteration of structures more than two hundred feet (200') in height above the ground level or at a height that penetrates defined imaginary surfaces located in the vicinity of the Northwest Iowa regional airport, as well as construction or alteration of greater height than an imaginary surface extending outward and upward at one hundred feet (100') to one foot (1') for a horizontal distance of twenty thousand feet (20,000') from the nearest point of the nearest runway. The affected area includes portions of the city of Spencer, unincorporated portions of Clay County, and unincorporated portions of Dickinson County.

PRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure providing course and vertical path guidance conforming to instrument landing system (ILS) or microwave landing system (MLS), precision system performance standards, utilizing ILS, LAAS, WAAS, MLS, and other precision systems. It also means a runway for which a precision approach system has been approved or planned.

RUNWAY: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE: An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures with no straight in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority. (Ord. 210, 10-17-1977; Ord. 697, 3-1-2010)

9-15-3: AIRPORT HEIGHT ZONES AND AIRSPACE HEIGHT LIMITATIONS:

In order to carry out the provisions of this section, there are hereby created and established certain zones, which include all of the land lying beneath the approach surfaces, transitional surfaces, and conical surfaces as they apply to the Northwest Iowa regional airport. Such zones are shown on the Northwest Iowa regional airport zoning map prepared by the city of Spencer and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive standard. The various zones and height limitations are hereby established and defined as follows:

A. Airport Zones:

1. **Approach Surface Zone:** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth below. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
2. **Inner Approach Surface Zone:** The inner portion of the approach surface extends out from the runway end to the where the part 77(C) approach surface reaches a one hundred foot (100') height above the ground elevation.
3. **Runway With A Precision Instrument Approach Zone:** The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet (1,000') wide. The approach zone expands outward uniformly to a width of sixteen thousand feet (16,000') at a horizontal distance of fifty thousand feet (50,000') from the primary surface. Its centerline is the continuation of the centerlines of runway 12 (existing) and runway 18 (planned).
4. **Runway Protection Zone (RPZ):** An area off the runway end to enhance the protection of people and property on the ground.
5. **Runway 30 And Runway 36 Instrument Approach Zone:** The inner edge of this approach zone coincides with the primary surface and is one thousand feet (1,000') wide. The approach zone extends out uniformly to a width of sixteen thousand feet (16,000') at a horizontal distance of fifty thousand feet (50,000') from the primary surface. Its centerline is the continuation of the centerlines of runways 30 and 36.
6. **Transitional Zones:** The transitional zones are the areas beneath the transitional surfaces.
7. **Horizontal Zone:** The horizontal zone is established by swinging arcs of ten thousand feet (10,000') radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
8. **Conical Zone:** The conical zone is a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').
9. **Primary Surface Zone:** The surface longitudinally centered on a runway. The primary surface is extended two hundred feet (200') beyond each end of each runway. The width of the primary surface is one thousand feet (1,000'). The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

B. Height Limitations: Except as otherwise provided in this chapter, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **Runway 30:** Slopes forty feet (40') outward for each foot upward beginning at the end of, and at the same elevation as the primary surface, and extending to a horizontal distance of fifty thousand feet (50,000') along the extended centerline.
2. **Runway 36:** Slopes forty feet (40') outward for each foot upward beginning at the end of, and at the same elevation as the primary surface, and extending to a horizontal distance of fifty thousand feet (50,000') along the extended centerline.
3. **Runway 18:** Slopes fifty feet (50') outward for each foot upward beginning at the end of, and at the same elevation as the primary surface, and extending to a horizontal distance of ten thousand feet (10,000'), then slopes forty feet (40') outward for each foot upward extending to a horizontal distance of forty thousand feet (40,000') along the extended centerline.
4. **Runway 12:** Slopes fifty feet (50') outward for each foot upward beginning at the end of, and at the same elevation as the primary surface, and extending to a horizontal distance of ten thousand feet (10,000'), then slopes forty feet (40') outward for each foot upward extending to a horizontal distance of forty thousand feet (40,000') along the extended centerline.
5. **Transitional zones:** Slope seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty feet (150') above the airport elevation which is 1,340.7 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand feet (5,000') measured at ninety degree (90°) angles to the extended runway centerline.
6. **Horizontal zone:** Established at one hundred fifty feet (150') above the airport elevation or at a height of 1,490.70 feet above mean sea level.
7. **Conical zone:** Slopes twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation and extending to a height of three hundred fifty feet (350') above the airport elevation. (Ord. 697, 3-1-2010)

9-15-4: USE RESTRICTIONS:

Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the

landing, takeoff, or maneuvering of aircraft intending to use the airport.

A. Runway Protection Zone: Runway protection zone is a trapezoidal area "off the end of the runway threshold established to enhance the protection of people and property on the ground" in the event an aircraft lands or crashes beyond the runway end. Runway protection zones underlie a portion of the approach closest to the airport.

Compatible land use within the RPZ is generally restricted to such land uses as agricultural and uses that do not involve congregations of people or construction of buildings or other improvements that may be obstructions. The following land use criteria apply within the RPZ:

1. While it is desirable to clear all objects from the RPZ, some uses are permitted, provided they do not attract wildlife, are outside the runway object free area, and do not interfere with navigational aids. Agricultural operations (other than forestry or livestock farms) are expressly permitted under this provision. Golf courses (but not clubhouses), although discouraged, may be permitted if a wildlife hazard assessment determines that it will not provide an environment attractive to birds. Automobile parking facilities, although discouraged, may be permitted, provided the parking facilities and any associated appurtenances, in addition to meeting all of the preceding conditions, are located outside of the object free area extension.

2. Land uses prohibited from the RPZ are: residences and places of public assembly. Churches, schools, hospitals, office buildings, shopping centers, and other uses with similar concentrations of persons typify places of public assembly.

B. Building Restriction Line: No structures, other than those approved by the federal aviation administration and the city of Spencer, and which conform to the underlying zoning designation, shall be constructed within the building restriction line (BRL).

C. Exemption For Airport Operations: Use restrictions shall not apply to necessary and incidental airport operations.

D. Prohibited Uses: Regardless of any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to do any of the following:

1. Create Electrical Interference: Create electrical interference with navigational signals or radio communication between the airport and aircraft,

2. Imitate Airport Lights: All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that is not misleading or dangerous to aircraft operating from the Northwest Iowa regional airport, or in the vicinity thereof,

3. Result In Glare: Result in glare in the eyes of pilots using the airport,

4. Impair Visibility In The Vicinity Of The Airport: No operations from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any runway of the Northwest Iowa regional airport,

5. Create Bird Strikes: Create bird strike hazards, or

6. Endangerment Of Aircraft: Otherwise endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ord. 697, 3-1-2010)

9-15-5: LIGHTING:

A. Notwithstanding the provisions of section 9-15-4 of this chapter, the owner of any structure over two hundred feet (200') above ground level must install, on the structure, lighting in accordance with federal aviation administration (FAA), advisory circular 70-7460-1D and amendments. Additionally, any structure, constructed after the effective date of this chapter and exceeding nine hundred forty nine feet (949') above ground level, must install on that structure high intensity white obstruction lights in accordance with chapter 6 of FAA advisory circular 70-7460-1D and amendments.

B. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the city of Spencer at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard. (Ord. 210, 10-17-1977)

9-15-6: VARIANCES:

Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this chapter, may apply to the board of adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the board of adjustment unless a copy of the application has been submitted to the Spencer superintendent of public works. If the superintendent of public works does not respond to the board of adjustment within fifteen (15) days from receipt of the copy of the application, the board may make its decision to grant or deny the variance. (Ord. 210, 10-17-1977)

9-15-7: JUDICIAL REVIEW:

Any persons aggrieved, or any taxpayer affected, by any decision of the board of adjustment, may appeal to the court of record as provided in Iowa statutes, section 414.15. (Ord. 210, 10-17-1977)

9-15-8: SEVERABILITY:

If any provisions of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Ord. 210, 10-17-1977)

9-15-9: EFFECTIVE DATE:

Whereas, the immediate operation of the provisions of this chapter is necessary for the preservation of the public health, public safety and general welfare and this chapter shall be in full force and effect from and after its passage by the city council and publication and posting as required by law. (Ord. 210, 10-17-1977)

9-15-10: NONCONFORMING USES:

A. Regulations Not Retroactive: Ordinance 697 amendments shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree which complied with this chapter prior to the adoption of the ordinance codified herein, or which existed prior to the adoption of this chapter. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date hereof and is diligently prosecuted.

B. Marking And Lighting: Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the manager of the Northwest Iowa regional airport to indicate the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Northwest Iowa regional airport. Any permit granted may be conditioned to require the owner of the structure in question to install, operate and maintain, at the owner's expense, such marking and lights as may be necessary.

C. Alteration Or Change Of Nonconforming Use: No permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date hereof, or any amendment hereto, or than it is when the application for a permit is made.

D. Nonconforming Uses Abandoned Or Destroyed: Whenever the administrative agency or its designee determines that a nonconforming structure is abandoned for one year or destroyed, by any means, to the extent of more than sixty percent (60%) of the replacement cost, said structure shall not be rebuilt, restored, or reoccupied for any purpose unless it shall thereafter conform to all regulations of this chapter. (Ord. 697, 3-1-2010)

CHAPTER 16

FLOODPLAIN MANAGEMENT

SECTION:

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9-16-1: STATUTORY AUTHORIZATION; FINDINGS OF FACT AND PURPOSE; SHORT TITLE:

A. Statutory Authorization: The legislature of the state has in chapter 414, code of Iowa, empowered cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

B. Findings Of Fact:

1. The flood hazard areas of the city are subject to periodic inundation which can result 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 health, safety, and general welfare of the community.

2. These losses, hazards and related adverse effects are caused by the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood and the cumulative effect of floodplain construction on flood flows, which causes increases in flood heights and floodwater velocities.

3. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Iowa department of natural resources.

C. Statement Of Purpose: It is the purpose of this chapter to promote the public health, safety, and general welfare by minimizing those flood losses described in subsection B of this section with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

2. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood which cause excessive increases in flood heights velocities.

3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction.

4. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program. (Ord. 239, 1-13-81; Ord. 359, 5-23-88)

9-16-2: GENERAL PROVISIONS:

A. Lands to Which this Chapter Shall Apply: This Chapter shall apply to all lands within the jurisdiction of the City, shown on the Official Flood Boundary and Floodway Map as being within the boundaries of the floodway overlay, floodway fringe overlay, general flood plain overlay and shallow flooding overlay districts.

B. Establishment of Official Flood Plain Zoning Map: The Flood Boundary and Floodway Map prepared as part of the Flood Insurance Study of the City, dated January 16, 1981, is hereby adopted by reference and is declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained in the Flood Insurance Study and Flood Insurance Rate Map are also declared to be a part of this Chapter.

C. Rules for Interpretation of District Boundaries: The boundaries of the zoning district shall be determined by scaling distances on the Official Flood Plain Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map the City Building and Zoning Officer shall make the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their views and submit technical evidence.

D. Compliance: No structure land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Chapter and other applicable regulations which apply to uses within the jurisdiction of this Chapter.

E. Abrogation and Greater Restrictions: It is not intended by this Chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other chapters inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.

F. Interpretation: In their interpretation and application the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

G. Warning and Disclaimer of Liability: The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding flood damages. This Chapter shall not create any liability on the part of the City, any officer employee thereof, for any flood damages that result from reliance on this Chapter because of any administrative decision made hereunder.

H. Severability: If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

I. Short Title: This Chapter Title 9, Chapter 16 of this Municipal Code, shall be known as, and cited as, *THE SPENCER FLOOD PLAIN MANAGEMENT ORDINANCE*. (Ord. 239, 1-13-81)

9-16-3: ESTABLISHMENT OF ZONING DISTRICTS:

The flood plain areas within the jurisdiction of this Chapter are hereby divided into the following districts:

A. Floodway Overlay District: The floodway overlay district shall be consistent with the boundaries of the floodway as shown on the Official Flood Plain Zoning Map.

B. Floodway Fringe Overlay District: The floodway fringe overlay district shall be those areas shown as floodway fringe on the Official Flood Plain Zoning Map.

C. General Flood Plain Overlay District: The general flood plain overlay district shall be those areas shown on the Official Flood Plain Zoning Map as being within the approximate 100-year flood boundary.

D. Shallow Flooding Overlay District: The shallow flooding overlay district shall be those areas shown on the Official Flood Plain Zoning Map as being within the 100-year flood boundary and identified on the Flood Insurance Rate Map as AO or AH zones. (Ord. 239, 1-13-81; Ord. 359, 5-23-88)

9-16-4: FLOODWAY OVERLAY DISTRICT (FW):

A. Permitted Uses: The following uses shall be permitted within the floodway overlay district to the extent they are not prohibited by any other ordinance or underlying zoning district and provided they do not require placement of structures, factory built homes, fill other obstruction, storage of materials equipment, excavation or alteration of a watercourse.

1. Agriculture uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

2. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ranges, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

4. Residential uses such as lawns, gardens, parking areas and play areas.

5. Such other open space uses similar in nature to the above uses.

B. Conditional Uses: The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a conditional use permit by the Board of Adjustment as provided for in subsection 9-16-8C. Such uses must also meet the applicable provisions of the floodway district performance standards.

1. Uses structures accessory to open space uses.
2. Circuses, carnivals and similar transient amusement enterprises.
3. Drive-in theatres, new and used car lots, roadside stands, signs and billboards.
4. Extraction of sands, gravel and other materials.
5. Marinas, boat rentals, docks, piers, wharves.
6. Utility transmission lines, underground pipelines.

7. Other uses similar in nature to uses described in subsections 9-16-4A or B which are consistent with the provisions of subsection 9-16-4C and the general spirit and purpose of this Chapter.

C. Performance Standards: All floodway overlay district uses allowed as a permitted or conditional use shall meet the following standards.

1. No use shall be permitted in the floodway district that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

2. All uses within the floodway overlay district shall:

- a. Be consistent with the need to minimize flood damage.
- b. Use construction methods and practices that will minimize flood damage.
- c. Use construction materials and utility equipment that are resistant to flood damage.

3. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch or any other drainage facility system.

4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the floodway fringe overlay district and shall be constructed or aligned to present the minimum possible resistance to flood flows.

5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

6. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway overlay district within the time available after flood warning.

7. Watercourse alterations or relocations (channel changes and modifications) may be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations relocations must be approved by the Iowa Department of Natural Resources.

8. Any fill allowed in floodways must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

9. Pipeline, river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows. (Ord. 239, 1-13-81; Ord. 359, 5-23-88)

9-16-5: FLOODWAY FRINGE OVERLAY DISTRICT (FF):

A. Permitted Uses: All uses within the floodway fringe overlay district shall be permitted to the extent that they are not prohibited by any other chapter or underlying zoning district and provided they meet applicable performance standards of the floodway fringe overlay district.

B. Performance Standards: All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards:

1. Anchored: All structures shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure; be constructed with materials and utility equipment resistant to flood damage and be constructed by methods and practices that minimize flood damage.

2. Residential Building: All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of one foot (1') above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot (1') above the 100-year flood level and extend at such elevation at least eighteen feet (18') beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the board of adjustment and issuance of a conditional use permit, where existing topography, street grades or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential buildings shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential Buildings: All new or substantially improved nonresidential buildings shall have the first floor (including basement) elevated a minimum of one foot (1') above the 100-year flood level or together with attendant utility and sanitary systems be floodproofed to such a level. When floodproofing is utilized, a professional engineer, registered in the state, shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to mean sea level) to which any structures are floodproofed shall be maintained by the building and zoning officer.

4. All New And Substantially Improved Structures:

a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot (1') above grade.

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

b. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

5. Factory Built Homes:

a. Factory built homes, including those placed in existing factory built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement.

b. Factory built homes, including those placed in existing factory built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot (1') above the 100-year flood level.

6. Mobile Home Parks: New mobile home parks, expansions to existing mobile home parks, and mobile home parks where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) or more of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced shall provide:

a. Lots or pads that have been elevated by means of compacted fill so that the lowest floor of mobile homes will be a minimum of one foot (1') above the 100-year flood level;

b. Adequate surface drainage;

c. Access for a hauler; and

d. Ground anchors for mobile homes.

7. Utility And Sanitary Systems:

a. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters. Wastewater treatment facilities shall be provided with a level of flood protection equal to or greater than one foot (1') above the 100-year flood elevation.

b. On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

c. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one foot (1') above the 100-year flood elevation.

d. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

8. Storage Of Flammable Materials: Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot (1') above the 100-year flood level. Other material and equipment must either be similarly elevated or not be subject to major flood damage and be anchored to prevent movement due to floodwaters or be readily removable from the area within the time available after flood warning.

9. Flood Control Structural Works: Flood control structural works such as levees, floodwalls, etc., shall provide, at a minimum, protection from a 100-year flood with a minimum of three feet (3') of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Iowa department of natural resources.

10. Capacity Of Channel: No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or other drainage facility or system.

11. Subdivisions: Subdivisions, including factory built home parks and subdivisions, shall be consistent with the need to

minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain passable during occurrence of the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include a 100-year flood elevation data for those areas located within the floodplain (overlay) district.

12. Exemption: The exemption of detached garages, sheds, and similar structures from the 100-year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents, however, said detached garages, sheds and similar accessory type structures are exempt from the 100-year flood elevation requirements when:

- a. The structure shall not be used for human habitation.
- b. The structure shall be designed to have low flood damage potential.
- c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- d. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
- e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot (1') above the 100-year flood level.

13. Recreational Vehicles: Recreational vehicles are exempt from the requirements of this section regarding anchoring and elevation of factory built homes when the following criteria are satisfied:

- a. The recreational vehicle shall be located on the site for less than one hundred eighty (180) consecutive days, and
- b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- c. Recreational vehicles that are located on the site for more than one hundred eighty (180) consecutive days or are not ready for highway use must satisfy requirements of this section regarding anchoring and elevation of factory built homes.

14. Pipeline River And Stream Crossings: Pipeline river and stream crossings shall be buried in the stream bed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering. (Ord. 239, 1-13-1981; Ord. 359, 5-23-1988; Ord. 775, 12-1-2014)

9-16-6: GENERAL FLOODPLAIN OVERLAY DISTRICT (FP):

A. Permitted Uses: The following uses shall be permitted within the floodplain overlay district to the extent they are not prohibited by any other ordinance or underlying zoning district and provided they do not include placement of structures, factory built homes, fill or other obstruction; the storage of materials or equipment; excavation; or alteration of a watercourse.

B. Conditional Uses: Any use which involves placement of structures, factory built homes, fill or other obstructions; the storage of materials or equipment; excavation; or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the board of adjustment as provided for in subsection 9-16-8C of this chapter. All such uses shall be reviewed by the Iowa department of natural resources to determine: 1) whether the land involved is either wholly or partly within the floodway or floodway fringe, and 2) the 100-year flood level. The applicant shall be responsible for providing the department of natural resources with sufficient technical information to make the determination.

C. Performance Standards:

1. All conditional uses, or portions thereof, to be located in the floodway as determined by the department of natural resources, shall meet the applicable provisions and standards of the floodway overlay district.

2. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the department of natural resources shall meet the applicable standards of the floodway fringe overlay district.

3. In shallow areas described as AO and AH zones on the flood insurance rate map, require drainage paths around structures on slopes to guide water away from the structure. (Ord. 359, 5-23-1988; Ord. 775, 12-1-2014)

9-16-7: SHALLOW FLOODING OVERLAY DISTRICT (SF):

A. Permitted Uses: All uses within the shallow flooding overlay district shall be permitted to the extent that they are not prohibited by any other chapter or underlying zoning district and provided they meet the applicable performance standards of the shallow flooding overlay district.

B. Performance Standards: The performance standards for the shallow flooding overlay district shall be the same as the performance standards for the floodway fringe overlay district with the following exceptions:

1. In shallow flooding areas designated as an AO zone on the flood insurance rate map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the rate map above the crown of the nearest street.

2. In shallow flooding areas described as an AH zone on the flood insurance rate map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the rate map. (Ord. 239, 1-13-1981; Ord. 359, 5-23-1988)

9-16-8: ADMINISTRATION:

A. Appointment, Duties And Responsibilities Of Zoning Administrator:

1. The city building and zoning officer shall administer and enforce this chapter and will herein be referred to as the administrator.

2. Duties and responsibilities of the administrator shall include, but not necessarily be limited to, the following:

- a. Review all floodplain development permit applications to ensure that the provisions of this chapter will be satisfied.
- b. Review all floodplain development permit applications to ensure that all necessary permits have been obtained from federal, state or local governmental agencies.
- c. Record and maintain a record of the elevation (in relation to mean sea level) of the lowest habitable floor of all new or substantially improved buildings or the elevation to which new or substantially improved structures have been floodproofed.
- d. Notify adjacent communities and/or counties and the Iowa department of natural resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the federal insurance administrator.
- e. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this chapter.
- f. Submit to the federal insurance administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the federal insurance administration.
- g. Notify the federal insurance administration of any annexations or modifications to the community's boundaries.
- h. Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the city council of potential conflicts.

B. Floodplain Development Permit:

1. **Permit Required:** A floodplain development permit issued by the administrator shall be secured prior to initiation of any floodplain development (any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of mobile homes.
2. **Application For Permit:** Application for a floodplain development permit shall be made on forms supplied by the administrator and shall include the following information:
 - a. Description of work to be covered by the permit for which application is to be made.
 - b. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
 - c. Indication of the use or occupancy for which the proposed work is intended.
 - d. Elevation of the 100-year flood.
 - e. Elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of buildings or of the level to which a building is to be floodproofed.
 - f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - g. Such other information as the administrator deems reasonably necessary for the purpose of this chapter.
3. **Permit Fee:** Each application for a floodplain development permit for interior remodeling, siding or other proposed activity which will not result in any significant change to the exterior of any structure or change to any land surface shall be accompanied with a permit application fee in the amount of twenty five dollars (\$25.00).

All other applications for a floodplain development permit shall be accompanied with a permit application fee in the amount of fifty dollars (\$50.00).

4. **Action On Permit Application:** The administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable provisions and standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The administrator shall not issue permits for conditional uses or variances except as directed by the board of adjustment.

5. **Construction And Use To Be As Provided In Application And Plans:** Floodplain development permits issued on the basis of approved plans and applications authorized only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and shall be punishable as provided in section 9-16-10 of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the state, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

C. Conditional Uses, Appeals, And Variances:

1. **Duties Of Board Of Adjustment:** The board of adjustment shall hear and decide applications for conditional uses upon which the board is authorized to pass under this chapter; appeals; and requests for variances to the provisions of this chapter; and shall take any other action which is required of the board.
2. **Conditional Uses:** Requests for conditional uses shall be submitted to the administrator, who shall forward such to the board of adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the board of adjustment.
3. **Appeals:** Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative

official in the enforcement or administration of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the board of adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

4. Fee: Each request for a conditional use permit and each appeal under this section shall be accompanied with a filing fee in the amount of fifty dollars (\$50.00).

5. Variances: The board of adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

a. No variance shall be granted for any development within the floodway overlay district which would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

b. Variances shall only be granted upon: 1) a showing of good and sufficient cause, 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and 3) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, or cause fraud on or victimization of the public.

c. Variances shall be granted upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

d. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the zoning administrator that: 1) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as twenty five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and 2) such construction increases risks to life and property.

e. All variances granted shall have the concurrence or approval of the department of natural resources.

6. Hearings And Decisions Of The Board Of Adjustment:

a. Hearings: Upon the filing with the board of adjustment of an appeal, an application for a conditional use or request for a variance, the board shall hold a public hearing. The board shall fix a reasonable time for the hearing and give public notice thereof as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Iowa department of natural resources.

b. Decisions: The board shall arrive at a decision on an appeal, conditional use or variance within a reasonable time. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a conditional use or variance, the board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in subsection C5b of this section.

(1) Factors Upon Which The Decision Of The Board Shall Be Based: In passing upon applications for conditional uses or requests for variances, the board shall consider all relevant factors specified in other sections of this chapter, and:

(A) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(B) The danger that materials may be swept onto other lands or downstream to the injury of others.

(C) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(D) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(E) The importance of the services provided by the proposed facility to the community.

(F) The requirements of the facility for a floodplain location.

(G) The availability of alternative locations not subject to flooding for the proposed use.

(H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(I) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(J) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(K) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater expected at the site.

(L) Such other factors which are relevant to the purpose of this chapter.

(2) Conditions Attached To Conditional Uses Or Variances: Upon consideration of the factors listed above, the board may attach such conditions to the granting of conditional uses or variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

(A) Modification Of Facilities: Modification of waste disposal and water supply facilities.

(B) Use And Operation: Limitation on periods of use and operation.

(C) Operational Controls, Sureties And Deed Restrictions: Imposition of operational controls, sureties and deed restrictions.

(D) Protective Measures: Requirements for construction of channel modification, dikes, levees and other protective measures; provided such are approved by the Iowa department of natural resources and are deemed the only practical alternative to achieving the purposes of this chapter.

(E) Floodproofing Measures: Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood. The board of adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. Such floodproofing measures may include, but are not necessarily limited to, the following:

(i) Anchorage to resist flotation and lateral movement.

(ii) Installation of watertight doors, bulkheads and shutters or similar methods of construction.

(iii) Reinforcement of walls to resist water pressures.

(iv) Use of paints, membranes or mortars to reduce seepage of water through walls.

(v) Addition of mass or weight structures to resist flotation.

(vi) Installation of pumps to lower water levels in structures.

(vii) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.

(viii) Pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation wall and basement flood pressures.

(ix) Construction to resist rupture or collapse caused by water pressure or floating debris.

(x) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and stormwaters into the buildings or structures.

(xi) Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding.

(F) Appeals To The Court: Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the board. (Ord. 239, 1-13-1981; Ord. 319, 8-19-1985; Ord. 359, 5-23-1988)

9-16-9: NONCONFORMING USES:

A structure or the use of a structure or land which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

A. No such use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.

B. No structural alteration, addition or repair to any nonconforming structure over the life of the structure shall exceed fifty percent (50%) of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.

C. If such use is discontinued for three (3) consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses which have been discontinued for three (3) months.

D. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

E. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

F. Except as provided in subsection E of this section, any use which has been permitted as a conditional use or variance shall be considered a conforming use. (Ord. 239, 1-13-1981; Ord. 359, 5-23-1988)

9-16-10: PENALTIES FOR VIOLATION:

Violations of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of conditional uses or variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 239, 1-13-1981)

9-16-11: AMENDMENTS:

The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed as provided in sections 414.4, 414.5 and 414.21, code of Iowa. No amendment, supplement, change or modification to this chapter shall be undertaken without prior approval from the natural resources council. (Ord. 239, 1-13-1981)

9-16-12: DEFINITIONS:

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

BASEMENT: Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see definition of Lowest Floor.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

EXISTING CONSTRUCTION: Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

FACTORY BUILT HOME: Any structure designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory built homes include mobile homes, modular homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

FACTORY BUILT HOME PARK: A parcel or contiguous parcels of land divided into two (2) or more factory built home lots for rent or sale.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

FLOOD ELEVATION: The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is that elevation of floodwaters related to the occurrence of the 100-year flood.

FLOOD INSURANCE RATE MAP: The official map prepared as part of (but published separately from) the flood insurance study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: A study initiated, funded, and published by the federal insurance administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the city with the necessary information for adopting a floodplain management program; and establishing actuarial flood insurance rates.

FLOODPLAIN: Any land area susceptible to being inundated by water as a result of a flood.

FLOODPLAIN MANAGEMENT: An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including, but not limited to, emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

FLOODPROOFING: Any combination of structural or nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

FLOODWAY: The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge floodwaters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

FLOODWAY FRINGE: Those portions of the floodplain, other than the floodway, which can be filled, leveed or otherwise obstructed without causing substantially higher flood levels or flow velocities.

HISTORIC STRUCTURE: Any structure that is:

- A. Listed individually in the national register of historic places, maintained by the department of interior, or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing of the national register;
- B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a preliminarily determined by the secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either:
 - 1. An approved state program as determined by the secretary of the interior, or
 - 2. Directly by the secretary of the interior in states without approved programs.

LOWEST FLOOR: The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- A. The enclosed area is designed to flood with walls or openings that satisfy the provisions of subsection 9-16-5B4a of this chapter;
- B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage;
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot (1') above the 100-year flood level; and
- D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria of subsections A, B, C and D of this definition, the lowest floor is the floor of the next highest enclosed area that does not satisfy the above criteria.

MINOR PROJECTS: Small development activities (except for filling, grading and excavating) valued at less than five hundred dollars (\$500.00).

NEW CONSTRUCTION (New Buildings, New Mobile Home Parks): Those structures or development for which the start of construction commenced on or after January 1, 1981.

100-YEAR FLOOD: A flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

RECREATIONAL VEHICLE: A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES: Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as reroofing, replacing roofing tiles and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, countertops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement, was within one hundred eighty (180) days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; 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 substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory built homes, storage tanks and other similar uses.

SUBSTANTIAL DAMAGE: Any of the following:

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: 1) before the improvement or repair is started, or 2) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe conditions for the existing use.

B. Any addition which increases the original floor area of a building by twenty five percent (25%) or more. All additions constructed after January 13, 1981, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty five percent (25%). (Ord. 239, 1-13-1981; Ord. 359, 5-23-1988; Ord. 775, 12-1-2014)

CHAPTER 17

PUBLIC WATER SUPPLY PROTECTION OVERLAY DISTRICT

SECTION:

9-17-1: Statement Of Intent

9-17-2: Overlay District And Zones

9-17-3: Public Water Supply Protection Overlay District Map

9-17-4: Zoning Provisions Incorporated By Reference

9-17-5: Zone C Regulations

9-17-6: Zone B Regulations

9-17-7: Zone A Regulations

9-17-8: Special Exception Use Permit

9-17-9: General Public Water Supply Protection Overlay District Regulations

9-17-10: Exceptions

9-17-11: Platted Lots

9-17-12: Inspections

9-17-1: STATEMENT OF INTENT:

The City recognizes that consequences of certain land use activities, whether intentional or accidental, may contaminate or degrade the quality of the ground water from which the public water supply is drawn. The purpose of this Chapter is to protect from and prevent the contamination or degradation of Municipal ground water resources from certain land use activities by imposing appropriate restrictions upon lands located within the ground water recharge area of the Municipal water supply. There is created by this Chapter, an overlay zoning ordinance, under which supplemental land use regulations, limitations and restrictions apply in addition to the land use restrictions contained in other titles or chapters of this Code. The restrictions imposed in this Chapter are in addition and supplemental to all other zoning and land use restrictions contained in this Code. (Ord. 518, 8-2-1999)

9-17-2: OVERLAY DISTRICT AND ZONES:

A Public Water Supply Protection Overlay District is hereby created and divided into Zone A, Zone B, and Zone C as follows:

A. Zone A is identified as the primary source of water for the Municipal well aquifer and as the area most likely to transmit ground water contaminants to the Municipal wells. Zone A is more restrictive than Zone B. Zone A represents the area in which the "time of travel" of a contaminant to a well is one year or less.

B. Zone B is identified as a secondary source of water for the Municipal well aquifer and as an area where there is a lower probability of surface contaminants reaching the Municipal well fields. Zone B is less restrictive than Zone A. Zone B represents an area in which the "time of travel" of a contaminant to a well is one year to five (5) years.

C. Zone C is identified as a tertiary source of water for the Municipal well aquifer and as an area where there is an even lower probability of surface contaminants reaching Municipal well fields. Zone C is less restrictive than Zone B. Zone C is an area in which the "time of travel" for a contaminant to a well is five (5) years to ten (10) years. (Ord. 518, 8-2-1999)

9-17-3: PUBLIC WATER SUPPLY PROTECTION OVERLAY DISTRICT MAP:

The locations and boundaries of the Public Water Supply Protection Overlay District and Zones A, B, and C thereof are set forth on the Public Water Supply Protection Overlay District zoning map, which is adopted herewith, and which is incorporated herein by reference, and is attached to Ordinance 518 on file in the office of the City Clerk. This map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Chapter as though fully set forth and described herein.

The location of land uses in relation to the Public Water Supply Protection Overlay District, and the zones thereof, shall be determined by the Spencer Zoning Officer, whose determination shall be conclusive, subject to appeal to the Board of Adjustment or the Iowa District Court.

A defined parcel of real estate under common ownership which is partially within a zone of the District shall be subject to the regulations applicable for that zone. Portions of a parcel which are within different zones of the District shall be subject to the requirements applicable to the zone in which a portion of a parcel is located. However, a property owner may seek, and the Board of Adjustment may grant, as part of the terms of a special exception use permit pursuant to Section 9-17-8 of this Chapter, relief from the requirements of this paragraph. (Ord. 518, 8-2-1999)

9-17-4: ZONING PROVISIONS INCORPORATED BY REFERENCE:

Except as otherwise specifically provided in this Chapter, the provisions of Chapters 1, 2, and 12 of this Title, and the provisions of Sections 9-11-4 and 9-11-6 of this Title, shall be applicable and shall operate in conjunction with the provisions of this Chapter. Terms and phrases used in this Chapter shall have the definitions and meanings as contained in those Chapters or Sections. (Ord. 518, 8-2-1999)

9-17-5: ZONE C REGULATIONS:

A. Prohibited Uses: The following principal or accessory uses are hereby prohibited within Zone C of the Public Water Supply Protection Overlay District:

Landfills or areas for dumping or disposal of garbage, refuse, trash, demolition materials or pollutants.

Asphalt products manufacturing plants.

Car washes.

Automobile service stations.

Cemeteries.

Fertilizer manufacturing or storage facilities, except on-farm agricultural storage as permitted below.

Salt storage areas.

Junk or salvage yards.

Mining operations.

Petroleum product storage or processing.

Manufacturing, processing, sale, commercial storage or disposal of chemicals, toxic or hazardous materials or pollutants. (These provisions shall not be interpreted to prohibit the on-site storage or use of commercial or industrial chemicals or hazardous materials used in a commercial or industrial activity. Such storage or use may be permitted by special exception as provided under subsection B of this Section.)

B. Uses Permitted By Special Exception: The following uses may be permitted in Zone C, only by special exception:

Commercial, industrial or civic uses not listed as a prohibited use in the preceding subsection.

Livestock confinement facilities or feedlots.

On-site wastewater treatment and disposal systems.

Single- and multi-family residential uses.

Storage for on-site use of inorganic and organic contaminants as described in subsection 9-17-9B of this Chapter.

C. Permitted Uses: The following shall be permitted uses in Zone C:

Animal grazing.

Chemical application: application of fertilizers, pesticides or herbicides at a rate not exceeding label instructions.

Chemical storage: temporary on-farm storage limited to amounts necessary and appropriate for annual application to land to be farmed by the storer.

Field crops; pasture, hay, grains, vegetables.

Local utility services.

Low density residential; lots of fifteen thousand (15,000) square feet in area or greater connected to a City sanitary sewer or served by an on-site wastewater treatment and disposal system and for which a permit has been issued by Clay County.

Parks without sanitary facilities or with sanitary facilities connected to the City sanitary sewer.

Permanent open space dedicated to recreation without sanitary facilities or with sanitary facilities connected to the City sanitary sewer.

Public wells and utilities.

Stabilized sludge and manure application, application of stabilized sludge and manure to cropland at rates not greater than crop uptake; application records shall be maintained and subject to inspection.

Streets and highways.

Tree farms. (Ord. 518, 8-2-1999)

9-17-6: ZONE B REGULATIONS:

A. Prohibited Uses: The following principal or accessory uses are hereby prohibited within Zone B of the Public Water Supply Protection Overlay District:

All uses listed in subsection 9-17-5A of this Chapter.

Livestock confinement facilities or feedlots.

Motor vehicle repair facilities engaged in the repair or servicing of motor vehicles, including repair, painting or engine rebuilding.

Septic disposal sites.

B. Uses Permitted By Special Exception: The following uses may be permitted in Zone B, only by special exception:

Commercial, industrial or civic uses not listed as a prohibited use in the preceding subsection.

On-site wastewater treatment and disposal systems of any kind.

Single- and multi-family residential uses.

Storage for on-site use of inorganic and organic contaminants as described in subsection 9-17-9B of this Chapter.

C. Permitted Uses: The following shall be permitted uses in Zone B:

Animal grazing.

Chemical application: application of fertilizers, pesticides or herbicides at a rate not to exceed the label instructions based on crop uptake.

Field crops; pasture, hay, grains, vegetables.

Local utility services.

Low density residential; lots of fifteen thousand (15,000) square feet in area or greater connected to a City sanitary sewer or served by an on-site wastewater treatment and disposal system and for which a permit has been issued by Clay County.

Parks without sanitary facilities or with sanitary facilities connected to the City sanitary sewer.

Permanent open space dedicated to recreation without sanitary facilities or with sanitary facilities connected to the City sanitary sewer.

Public wells.

Stabilized sludge and manure application, application of stabilized sludge and manure to cropland at rates no greater than crop uptake; application records shall be maintained and subject to inspection.

Streets and highways.

Temporary on-farm storage limited to amounts necessary and appropriate for annual application to land to be farmed by the storer.

Tree farms. (Ord. 518, 8-2-1999)

9-17-7: ZONE A REGULATIONS:

A. Prohibited Uses: The following principal or accessory uses are hereby prohibited within Zone A of the Public Water Supply Protection Overlay District:

All uses listed in subsection 9-17-6A of this Chapter.

Pest control or exterminating services.

Residential dwelling units on lots less than fifteen thousand (15,000) square feet in area.

Stabilized sludge or manure applications to farmland within two hundred feet (200') of any well.

Storage for on-site use of inorganic and organic contaminants as described in subsection 9-17-9B of this Chapter.

B. Uses Permitted By Special Exception: The following uses may be permitted in Zone A, only by special exception:

Commercial, industrial or civic uses not listed as a prohibited use in the preceding subsection.

Low density residential; lots of fifteen thousand (15,000) square feet in area or greater.

C. Permitted Uses: The following shall be permitted uses in Zone A:

Field crops; pasture, hay, grains, vegetables.

Local utility services.

Parks without sanitary facilities or with sanitary facilities connected to the City sanitary sewer.

Permanent open space dedicated to recreation without sanitary facilities or with sanitary facilities connected to the City sanitary sewer.

Public wells and utilities.

Streets and highways.

Tree farms. (Ord. 518, 8-2-1999)

9-17-8: SPECIAL EXCEPTION USE PERMIT:

The Board of Adjustment may grant a special exception use permit for uses permitted by special exception under the provisions of this Chapter, pursuant to the provisions of Section 9-12-1 of this Title.

In considering applications for special exception use permits required under this Chapter, the Board of Adjustment shall not consider the review and evaluation criteria set forth in subsection 9-12-1F of this Title, unless a special exception use permit is required under provisions of this Code other than this Chapter.

For purposes of this Chapter, the review and evaluation criteria shall be as follows:

- A. The potential or risk for ground water contamination created by the proposed use.
- B. Reasonable modifications or limitations to the proposed use that would reduce or eliminate the potential for ground water contamination.
- C. Site and facility drainage.
- D. Provisions for the containment, collection, control, removal and discharge of spills and wastes.
- E. Sanitary sewer or disposal facilities.
- F. Limitation of permitted areas for storage of hazardous, dangerous or toxic substances.
- G. The applicant's demonstrated ability to safely handle toxic or hazardous substances under a written management plan and/or a

plan of action to contain and clean up a spill of such substances, should a spill occur.

H. The prior record and experience of the applicant or related entities concerning the spillage, discharge and control of contaminants.

I. The financial ability and resources of the applicant as related to the applicant's ability to accomplish a complete and timely cleanup required due to the release or discharge of a contaminant.

J. Any other factor that the Board of Adjustment finds is reasonably related to the protection of the Municipal water supply. (Ord. 518, 8-2-1999)

9-17-9: GENERAL PUBLIC WATER SUPPLY PROTECTION OVERLAY DISTRICT REGULATIONS:

The provisions of this Section shall apply throughout the Public Water Supply Protection Overlay District established in Section 9-17-2 of this Chapter.

A. No "French" drains, pits or similar structures that permit the drainage or discharge of substances into the ground shall be permitted. All such structures shall be connected to an approved on-site wastewater treatment and disposal system or sanitary sewer.

B. The following substances are considered to pose a serious threat of contamination to the Municipal water supply. Such substances shall not be used or stored in the Public Water Supply Protection Overlay District, except in strict compliance with the provisions of this Chapter, any special exception use permit issued under this Chapter, and applicable State and Federal laws and regulations. Such substances shall be stored only in designated locations within enclosed structures and in appropriate closed containers.

1. Lead.
2. Copper.
3. Inorganic contaminants listed in section 567-41.3(1) of the Iowa Administrative Code.
4. Organic chemical or compounds listed in section 567-41.5(1) of the Iowa Administrative Code. (Ord. 518, 8-2-1999)

9-17-10: EXCEPTIONS:

The following activities or uses are exempt from the provisions of this Chapter:

- A. The transportation of any hazardous or otherwise prohibited substance, provided the transporting vehicle is in transit.
- B. Growing and cultivation of pasture, grains, hay, trees, shrubs, vegetable gardens, flower gardens, turf or sod, together with customary uses of herbicides, pesticides and fertilizers necessary for the cultivation, used and applied in accordance with label instructions, except that no herbicides, pesticides or fertilizers shall be applied within two hundred feet (200') of a well.
- C. The use of any hazardous or otherwise prohibited substance solely as a fuel or lubricant in a motor vehicle.
- D. Fire, police and emergency medical services and activities.
- E. Consumer products limited to use at a facility solely for janitorial or maintenance purposes in connection with a permitted use.
- F. Consumer products located in the home that are used for personal family or household purposes.
- G. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field.
- H. The use of water treatment chemicals connected with the operation of the public water supply facilities.
- I. Activities conducted under the jurisdiction and control of the Spencer Municipal Airport Board on the airport property, including, without limitation, aircraft and motor vehicle construction, reconstruction, painting and repair, aircraft deicing accomplished in accordance with State and Federal regulations; and use and storage of petroleum products; however, agricultural spraying activities or facilities on the Spencer Municipal Airport shall be permitted only in compliance with the applicable rules of the Iowa Department of Agriculture. (Ord. 518, 8-2-1999)

9-17-11: PLATTED LOTS:

Lots included in a plat of subdivision which is recorded prior to the effective date hereof shall be exempt from any provisions of this Chapter which require connection to a City sanitary sewer. Such lots may be served by an on-site wastewater treatment and disposal system. (Ord. 518, 8-2-1999)

9-17-12: INSPECTIONS:

A. The City Building and Zoning Officer shall have the power and authority to enter and inspect all buildings, structures and land within the Public Water Supply Protection Overlay District for the purpose of making inspections.

B. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the Building and Zoning Officer may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection. (Ord. 518, 8-2-1999)