



Town of Spencer Planning Board Policies and Procedures

Adopted January 3, 2006

Amended Nov. 19, 2019
Amended January 2, 2024

Office of Development & Inspectional Services
Memorial Town Hall
157 Main Street
Spencer, MA 01562
508-885-7500 ext. 180

SPENCER PLANNING BOARD POLICIES AND PROCEDURES

TABLE OF CONTENTS

Article I, Purpose and Function pg. 3

Article II, Organization pg. 3

- Section 1. Authority.
- Section 2. Rules of Procedures.
- Section 3. Membership.
- Section 4. Officers.
- Section 5. Duties of the Planning Board.
- Section 6. Committees.

Article III, Meetings. pg. 6

- Section 1. Regular and Special Meetings.
- Section 2. Notices.
- Section 3. Agenda.
- Section 4. Quorum.
- Section 5. Rules of Order.
- Section 6. Voting.
- Section 7. Appearances of Citizens.
- Section 8. Minutes.
- Section 9. Mullin Rule.
- Section 10. Social Media Best Practices

Article IV, Public Hearings. pg. 9

- Section 1. Public Hearing Requirements.
- Section 2. Conduct of Public Hearings.

Article V. Review Procedures. pg. 10

- Section 1. Zoning Bylaw Amendments.
- Section 2. Subdivision.
- Section 3. Master Plan.
- Section 4. ANR.
- Section 5. Special Permit.
- Section 6. Site Plan Review.
- Section 7. Stormwater Permit.
- Section 8. Plan Requirements.
- Section 9. Certificate of Completion.
- Section 10. As-Built Plan Requirements.
- Section 11. Waivers
- Section 12. Electronic Signatures
- Section 13. Revised Documents Deadline

Article VI. Finances and Personnel. pg. 21

- Section 1. Expenditures.
- Section 2. Personnel and Consultants.
- Section 3. Fees.

Article VII. Adoption, Repeal and Amendment. pg. 23

- Section 1. Adoption and Repeal.
- Section 2. Amendment.

Appendix A. pg. 25

Appendix B. pg. 29

Article I

Purpose and Function

The Spencer Planning Board exists to provide an ongoing and future-oriented look at a continuing planning program that allows for the physical, societal and economic growth, as well as direction for the development and redevelopment of the Town of Spencer. Its main responsibilities include the preparation of plans for the resources, potential development, and needs of the Town of Spencer, primarily through the preparation and maintenance of the Master Plan. The Planning Board is responsible for the regulation of subdivisions in Spencer, to ensure and promote the safety, convenience and welfare of the inhabitants of the community. The Board deliberates with public input and serves as a recommending body to Town Meeting on amendments to the Zoning Bylaws. In performing its duties, the Planning Board must work within the legal framework and requirements of the law while exercising elemental fairness and open mindedness.

Article II

Organization

Section 1. Authority.

The Town of Spencer Planning Board was established by Article 26 of the 1963 Annual Town Meeting, pursuant to the authority of Massachusetts General Laws Chapter 41, Section 81A. This article set the membership at five, each for five-year terms. The appointing authority for the Planning Board was granted to the Town Administrator under Chapter 186 of the Acts of 1998: An Act Establishing a Board of Selectmen-Town Administrator Form of Government in the Town of Spencer.

Section 2. Rules of Procedures.

These *Rules of Procedure* are adopted by the Planning Board to guide the Board in the performance of their duties. Any committee of the Board so appointed by the Chairperson shall follow these *Rules of Procedure* to the extent applicable to the conduct of its proceedings. These Rules can be suspended by majority vote of the Board or Committee to meet particular circumstances.

Section 3. Membership.

- A. Number and Qualifications.** The Planning Board shall consist of five members appointed by the Town Administrator, with concurrence of the Board of Selectmen.

None of the members shall hold an elected public office or position with the Town of Spencer.

- B. Length of Terms.** Each member of the Planning Board shall be appointed to a five-year term. Terms shall begin on July 1 and shall end on June 30 of the applicable year. Mid-term vacancies shall be filled by the Town Administrator by appointments for the balance of the unexpired term.
- C. Term Limits.** No member may serve more than two successive terms, except at the pleasure of the Town Administrator with the concurrence of the Board of Selectmen when it is determined that such continuation of service is in the best interest of the Town. Service to fill an unexpired term of less than one and one-half years shall not constitute a term of service for the purpose of these term limits.
- D. Attendance/Absences.** Members are expected to attend all Planning Board meetings and all Committee meetings to which they are appointed. If a Member is unable to attend a meeting, the Chairperson or Office of Development & Inspectional Services (ODIS) shall be notified as far in advance as possible. The ODIS shall keep records on an annual basis of the number of absences of members.
- E. Removal.** If a Member has a total of six absences from the annually scheduled 24 regular meetings, the Planning Board shall consider and may recommend to the Town Administrator and Board of Selectmen that the Member's appointment be reconsidered.

Section 4. Officers.

The officers of the Planning Board shall be a Chairperson and a Vice-Chairperson, elected annually by the Planning Board members for one-year terms beginning at the first meeting in July. Neither of these two positions shall be filled by a Member beginning his or her first year of service on the Planning Board. The Office of Development & Inspectional Services (see Article VII) shall provide clerical and professional support.

- A. Chairperson.** The Chairperson shall be a voting member of the Planning Board and shall:
 - 1. Preside at all meetings and hearings of the Planning Board;
 - 2. Act as spokesperson for the Planning Board;
 - 3. Sign documents for the Planning Board except as otherwise required by MGL for endorsement of approved plans;
 - 4. Designate a Planning Board Member or personally act as liaison with other governmental agencies and Town Boards;
 - 5. Assign or delegate tasks to other Board Members as may be necessary to perform the Board's functions;

6. Make appointments to committees of the Planning Board and be an ex-officio member of all committees with a voice in discussions, but with no authority to vote on questions before such committees;
7. Collaborate with the staff to ensure all business is conducted in accordance with procedures and state laws; and,
8. Perform other duties approved by the Planning Board;
9. Submit to the Board of Selectmen an annual report of activities for inclusion in the Annual Reports of the Town.

B. Vice-Chairperson. The Vice-Chairperson shall exercise the duties of the Chairperson in the absence, disability, or disqualification of the Chairperson.

C. Specially Designated Chairperson. In the absence of both the Chairperson and Vice-Chairperson, the members shall elect an acting Chairperson present at a Planning Board meeting.

Section 5. Duties of the Planning Board.

MGL Chapter 41, sets forth the duties of the Planning Board. These include:

1. to review and approve or disapprove definitive subdivision plans;
2. to review and endorse "Approval Not Required" plans provided they meet the minimum criteria set forth in MGL Chapter 41 Section 81P;
3. to make and implement a Master Plan;
4. to prepare plans of the resources, possibilities, and needs of the Town;
5. to make annual reports to the Town Meeting regarding the condition of the Town;
6. to have an official map prepared if so, authorized by Town Meeting; and
7. to review and to prepare a report regarding the layout, alteration, relocation, or discontinuance of public ways.

Additional responsibilities may be delegated by the Spencer Zoning Bylaw, or elsewhere as needed.

Section 6. Committees.

The Planning Board, in the performance of its duties, may form committees consisting of members of the Planning Board to assist with the preparation of specific studies such as but not limited to the Master Plan or any element of the Master Plan, a downtown revitalization plan, or studies in relation to streets and ways. These committees will assist staff in developing plans and issues before them and report their findings to the Planning Board for action. The Planning

Board, with the concurrence of the Board of Selectmen, may invite non-members to sit on such committees to assist in the proceedings.

A. Committee Meeting Organization. Agendas, minutes, and packets shall be prepared and distributed for the regular Planning Board meetings, as appropriate (see Article III). The degree to which a committee shall follow Robert's Rules of Order shall be at the discretion of the Chairman of the committee. Many committee meetings can be run in an informal manner, but occasionally the need arises to follow a formal process for a meeting, particularly when the public is invited to speak.

Article III

Meetings

Section 1. Regular and Special Meetings.

A. Meeting Schedule. An annual schedule of regular meetings of the Planning Board shall be adopted, published, and posted at the Memorial Town Hall in December of each year. Regular meetings shall be held twice a month. Meetings shall be held at the time and place stated in the notices and shall be open to the public.

B. Regular Meetings. On the first and third Tuesday of each month, the Planning Board may hold a regular meeting to act on applications, zoning by-law amendments, zoning map amendments or specific projects. A Public Hearing may be required as part of this meeting as per Massachusetts General Laws. Public Hearings will only be scheduled to open on meetings held on the third Tuesday of the month.

C. Special Meetings. Other special meetings may be called by the Chairperson of the Planning Board, or by vote of the Members, upon 48 hours' notice. These meetings shall be posted and delivered to all members of the Planning Board, posted on Town Hall bulletin boards, and the Town website. Written verification of meeting notification shall be given to the Town Clerk and placed in the permanent records of the Planning Board.

D. Executive Sessions. The Planning Board may enter executive session only to discuss matters as allowed under the Massachusetts Open Meeting Law. The proceedings of executive sessions are secret, and all attendees are honor-bound not to divulge the proceedings. The Planning Board can request attendance by non-members as they deem appropriate. The Planning Board must take a simple majority vote to enter executive session. A detailed listing of circumstances under which the Board may enter Executive Session is included as **Appendix A** to these *Rules of Procedure*.

Section 2. Notices.

- A. General Notices.** The Clerk (Office of Development & Inspectional Services staff) shall give the notice required by statute or by-law for all meetings of the Planning Board and for all meetings of committees of the Board as per Massachusetts Open Meeting Law. Notice shall be posted and provided to all Planning Board Members at least five (5) days in advance of public hearing meetings and forty-eight (48) hours in advance of all other meetings. Such notices shall include the date, time, place, and purpose of the meeting.
- B. Public Hearing Notices.** The Clerk shall give notice at least 14 days prior to a Public Hearing for Special Permit, Site Plan Review, or Definitive Subdivision Plan applications, and the Request for Extension or Amendment of the aforementioned permits, advertising twice in a newspaper of general circulation in the Town of Spencer, with the first such notice being published at least 14 days in advance of the hearing. A copy of this notice shall be sent by registered mail to the applicant and all owners of land abutting the land which is the subject of the definitive subdivision plan.

Section 3. Agenda.

A written agenda shall be furnished by the Clerk to each member of the Planning Board, and shall be posted on Town Hall bulletin boards and on the Planning Board's webpage at least five (5) days prior to each regular meeting and at least forty-eight (48) hours prior to a special meeting. An agenda may be changed at the related meeting by a majority vote of the members present.

Section 4. Quorum.

A majority of the members of the Planning Board as constituted or a majority of a Committee of the Planning Board shall constitute a quorum for that body. A quorum shall be present before any action is taken by the Board or Committee. If there is lack of a quorum, the project may be discussed by those members present; however, no action shall be taken, and the project is rescheduled to the next regular Board meeting. If there is a lack of a quorum of the Planning Board, those members present may discuss the project they may forward their comments on the project to the Planning Board at the Board's next regular meeting. Since committees are advisory in nature, the Chairperson of the Planning Board may take the submitted comments, note in the record that they represent comments from individual Committee members and not the full Committee, and may then decide to take action on the project or remand the project back to the Committee for a full Committee recommendation.

The Clerk will notify the Chairperson in the event projected absences will result in the lack of a quorum for a particular meeting. The meeting may be cancelled at the discretion of the Chair.

Section 5. Rules of Order.

The most recent edition of *Roberts Rules of Order* shall govern the conduct of meetings of the Planning Board, except as otherwise provided for by the procedures set forth herein.

Section 6. Voting.

A. General. A Board Member must be present to vote. Each Member, including the Chairman, shall vote on every question before the Planning Board unless disqualified by law. Members are permitted to attend meetings remotely.

B. Disqualification. The question of disqualification shall be decided by the Board Member affected, who shall announce the reason for disqualification, give it to the Chairperson in writing or state said reason during the public hearing, and have it placed in the minutes of the meeting. Any Member so disqualified shall leave the Board's table while the disqualifying matter is being considered and refrain from deliberating or voting on the question.

Section 7. Appearances of Citizens.

Except for public hearings, no person shall be permitted to speak before the Planning Board unless invited to do so by the Chairperson. The length or speaking time may be limited at the discretion of the Chairperson.

Section 8. Minutes.

A. Planning Board Meetings. Minutes of each Planning Board meeting shall be recorded by the Clerk and approved at the next meeting which they are available, unless the Planning Board holds a majority vote to defer a decision to a later date. Final approved Minutes may be posted on the Town's Web site for public information and shall be kept in the permanent records of the Planning Board as required by state law.

B. Committee Meetings. Minutes of Committee meetings shall be recorded by a member of the committee or by the Town Planner or Clerk. Copies of approved Committee minutes shall be kept as part of the record for that Committee.

C. Lack of Quorum. If there is lack of a quorum of the Planning Board or a Committee, minutes may be recorded but shall include a statement in the footer of each page indicating that a quorum was not present, and the minutes are not official. Such minutes shall not be approved.

Section 9. Mullin Rule.

The Town of Spencer has adopted the provisions of MGL c. 39, §23D(a), which states “Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for one (1) or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member’s absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.”

The appropriate form for use by the Board members can be found in Appendix B.

Section 10. Social Media Best Practices.

Social media use shall fall under the provisions of MGL c. 30A, § 19(a), the Open Meeting Law. The intent of any public posts by any Board member may be examined to determine if there are any open meeting law violations. Members shall refrain from commenting about hearings or other specific body matters that may fall under its jurisdiction.

Article IV

Public Hearings

Section 1. Public Hearing Requirements.

Items appearing before the Planning Board which require a Public Hearing according to Massachusetts General Law are: Definitive Subdivision Plans, Zoning Bylaw Text Amendments, Special Permits (as delineated in Section 7.2.1.A of the Spencer Zoning Bylaw, amended as of Nov. 16, 2017), Zoning Map Amendments, and Scenic Road permits. Separate from Massachusetts General Law, Major Site Plan Review also requires a Public Hearing, but Minor Site Plan Review only requires a Public Meeting.

Section 2. Conduct of Public Hearings.

The following sequence shall be followed:

1. The Chairman declares the public hearing open after reading the item on the agenda;
2. Staff presentation of the application or proposal and their recommendation to approve, approve with conditions, or disapprove;

3. The Applicant, his attorney, or agent may make remarks;
4. Comments from the public, which shall be directed to the Planning Board;
5. The Applicant, his attorney, or agent shall have the right to reply last;
6. The Chairman declares the public hearing closed;
7. Motion and discussion by the Planning Board; and
8. Action by the Board.

The above shall not preclude the Board from having discussion and encouraging questions throughout the hearing. No person shall speak for more than five minutes without the consent of the Planning Board Chairman. No person speaking at a public hearing shall be subject to cross-examination. All questions will be posed by members of the Planning Board.

Article V

Review Procedures

Section 1. Zoning Bylaw Amendments.

Proposed amendments to the Zoning Bylaw text and zoning district boundaries shall be reviewed for conformity with the Town's Master Plan and recommendations shall be forwarded to the Board of Selectmen in conformance with MGL Chapter 40A Section 5. Conflicts with the Master Plan shall be noted in any report to the Board of Selectmen on a proposed amendment.

The majority of the entire membership of the Planning Board shall concur on a report regarding a proposed adoption or amendment of a zoning bylaw. No zoning bylaw or amendment thereto shall be adopted or changed except by a two-thirds vote of a Town Meeting.

Zoning amendment procedural steps for adoption of zoning bylaw or amendment may be submitted by:

- a. Board of Selectmen;
- b. Zoning Board of Appeals;
- c. Individual(s) owning land to be affected by change or adoption;
- d. Registered voters pursuant to MGL c. 39, §10;
- e. Planning Board;
- f. Regional Planning Agency;
- g. Others, if so provided by the Spencer Municipal Charter.

Section 2. Subdivision.

- A. General.** Refer to the Subdivision Regulations of the Town of Spencer (Adopted April 3, 2017) for procedures for reviewing Preliminary Plans, Definitive Plans, and requests for Approval Not Required plans.
- B. Payment for Review Services.** Whenever the Planning Board deems it appropriate and necessary to obtain the information needed to make an informed decision, the Board may hire, at the applicant's expense, a consultant to review plans submitted to ensure compliance with the Spencer Subdivision Rules and Regulations as well as applicable state laws and regulations. Payment for this review shall be made prior to the consulting work commencing by submitting to the Town of Spencer a deposit in an amount determined by the Town Planner, which will be placed in a separate account and used solely for the purposes of paying such review consulting fees. Additional deposits shall be made as required by the Town Planner, and all monies remaining in the account after all reviewing services have been completed and paid for shall be returned to the applicant. Such reviewing services may include the cost of surety estimate preparation.

If review funds charged are insufficient to cover the costs of outside professional expertise and/or consultant review, the applicant shall pay an additional review fee sufficient to cover these costs, including any late fees or interest accumulated. Only costs that are reasonable and related to this project undergoing review will be charged to the applicant. Additionally, the Planning Board may require an additional deposit into the special account when the account falls below 25% of the initial review fee. Failure of an applicant to pay a review fee shall be considered as an incomplete application and therefore not allow the application to go forward.

- C. Plans.** The plans will meet the requirements set forth by Section 9, Plan Requirements, of the Planning Board Rules of Procedures. If the plans do not meet the requirements set forth by this section, the applicant must request relief through a written waiver request.

Section 3. Master Plan.

The Planning Board should establish and maintain a planning process that results in the systematic preparation, continuing evaluation and updating of the Master Plan. The Board shall use the process for each Master Plan element as provided by MGL Chapter 41, Section 81D. The elements of the Plan shall involve broad-based citizen participation and the extent of detail for each element shall be based on community needs. The Master Plan shall be reviewed and re-evaluated by the Board at least every five years and updated every ten years.

Section 4. ANR.

Description of an ANR Plan: An ANR plan is one which does not require approval under

the Subdivision Control Law (MGL Ch 41 § 81P). Such plans may be divisions of land such that each parcel contains the minimum frontage required under the Spencer Zoning Bylaw where the frontage is on an existing street as defined in Article 1 of these subdivision regulations. Where no frontage is specified in the Zoning Bylaw, each parcel must have a minimum of 20 feet of frontage.

A. Application Requirements

An ANR plan shall be prepared by a land surveyor registered in the Commonwealth of Massachusetts and shall be clearly and legibly drawn to the requirements of the Recording Rules adopted by the Registry of Deeds in Massachusetts. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire plan.

An ANR plan shall contain the following information:

1. Total frontage and area of each lot shown on the plan, including any "remaining land" area, and including the net useable area of each resulting lot.
 - In cases where a parcel is being subdivided from a large parcel, a copy of the Assessor's map may be used to show the location, approximate boundaries, frontage, and area of the "remaining land".
2. Existing and proposed boundaries shall be shown with lines of different thickness or types (e. g. solid vs. dashed) to clearly illustrate the purpose of the plan.
3. Location and approximate area of wetlands as shown on the most recent DEP Wetlands map from MassGIS, to prove compliance with Section 5.3.9 of the Spencer Zoning Bylaw.
4. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and monuments or references necessary to establish these lines on the ground.
5. Location of all existing structures on all lots affected by the ANR, showing setback dimensions for front, side and rear.
6. Square foot coverage of existing structures, for use in determining compliance with building coverage requirements.
7. Where practical, boundary lines of contiguous and adjacent land and the names of the owners thereof, as determined from the most recent tax list.
8. Location, names, present widths, and status of public and private ways abutting the property.
9. A note indicating the specific purpose of the plan including a

description of the proposed changes to the parcels or lots.

10. Locus map, north point, date, and scale.
11. Zoning classification and location of any Zoning District Boundaries that may lie within the locus of the plan.
12. Notice of any decisions by the Planning Board and the Zoning Board of Appeals, including, but not limited to, variances and special permits regarding the land or any buildings thereon plan and/or any classifications by the Board of Assessors under Chapter 61, 61A, or 61 B.
13. Suitable space to record the endorsement of the Board that Approval is Not Required and the signatures of the members of the Board or their designee.
14. A note on the plan indicating that any parcel being created that does not conform to the Spencer Zoning Bylaw is not a buildable lot.
15. Name of the record owner, name of the registered land surveyor, and the Worcester Registry of Deeds book and page reference of conveyance to record owner.
16. Town of Spencer Assessors Map and Parcel numbers.

B. Approval Process

1. Applications shall be submitted to the Office of Development of Inspectional Services. The application and plan will be reviewed by the Office of Development and Inspectional Services and Town Assessor, and when determined to be complete shall be taken to the Town Clerk for stamping for the purpose of commencing the official timeframe for action by the Planning Board.

Applicants with incomplete applications will be notified by ODIS within 2 days of receipt of the application with incorrect or missing items, whereupon the process will be put on hold until a modified plan is submitted. The application will be listed on the next available agenda of the Board for consideration, in compliance with the deadline schedule established by the Board.

2. Once endorsed, the applicant will be notified to pick up the mylar and they shall be responsible for having it recorded at the Worcester Registry of Deeds.
3. For purposes of maintenance of Town records, including tax maps kept by the Assessor's Office, an electronic copy in compliance with Level III of the current version of the MassGIS Standard for Digital Plan Submission to Municipalities (available at the Office of Development and Inspectional Services or at www.mass.gov/mgis) shall be filed within 14 days of

endorsement of the plan, if the plan was produced in CAD or other electronic format.

The Planning Board may waive this requirement or allow a submission in compliance with Level I of the Standard upon written request which must include a statement as to the reasons electronic submission is not possible. For Level III submissions, the coordinate system to be used shall be the Massachusetts Coordinate System, North American Datum 1983, with units of US Survey Feet, and the vertical datum shall be the North American Vertical Datum 1988.

4. Final action will be taken within 21 days of the application being filed.

Section 5. Special Permit.

Under the regulations set forth by the Spencer Zoning Bylaw, the Planning Board shall be the Special Permit Granting Authority for two-family dwellings, multi-family development, shopping centers, wind energy Conversion facilities, rear lot subdivisions, common driveways, and signage (but only when an applicant is required to comply with Section 7.4, Site Plan Review, or the Zoning Bylaw).

A. Application Requirements for a Special Permit.

1. If denied by the Building inspector; reason and/or denial form with signature by the Building Inspector.
2. Copy of legal description of property (narrative from Registry of Deeds). Description must include accurate and current owner's deed book and page reference – not Plan Book.
3. Brief (short narrative of what will be done). Must show accurate measurements of all lot lines of proposed project.
4. Abutter notification sent Certified Mail. Abutters list can be obtained from the Assessor.
5. Zoning district must be entered on the petition.
6. For Special Permits, Tax Collector Sign off for taxes, liens, etc. are paid.

***Additional materials may be required, at the discretion of the Town Planner, Zoning Enforcement Officer, or Planning Board.**

7. Copy of registered plot plan which is stamped and certified by a civil engineer.
8. Letters of support from applicable town departments.
9. Parking plan.

***Additional requirements for a Special Permit for a Common Driveway are:**

10. A written maintenance agreement to determine who will be responsible for the maintenance of the driveway.
11. Signage that clearly addresses the two properties on site for the purpose of identification for emergency services.

B. Submission Process.

1. Submit seven (7) copies, plus the originals, the applicable fee, and abutters list. In addition to the hard copies, an electronic copy must be provided to the Clerk/Town Planner.
2. If all information is not available for the hearing, an additional \$25.00 fee may be required for a continuance. Additional fees may be determined by the Planning Board if a professional finding is deemed necessary (i.e. third party review, etc.).

Section 6. Site Plan Review.

The purpose of this section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for a review of plans for uses and structures which do not require definitive subdivision review and may have significant impacts, both within the site and in relation to adjacent properties and streets, on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties; and community needs.

A. Application Requirements for a Definitive Plan.

Applicants for site plan review shall submit seven (7) copies of the site plan to the Planning Board through the Office of Development & Inspectional Services (ODIS) for review. The plans shall meet the requirements set forth by Section 9, Plan Requirements, of the Planning Board Rules of Procedures, in addition to:

1. Topography and drainage plan, showing the existing and proposed final topography at two-foot intervals, plans for handling stormwater drainage, and all wetlands and floodplain areas on the site and within 100 feet of the site.
2. A narrative, describing the project and indicating the number of dwelling units and/or square footage of non-residential buildings categorized by general use (retail, office, warehouse, etc.); the percentage of building coverage and impervious surfaces on the site; the acreage of the site in general categories (residential, commercial, open space, road and utility rights-of-way, etc.); the forms of ownership contemplated for the project and a summary of the provisions of the maintenance of commonly held areas; and an indication of the estimated time required to complete the proposed project and any and all phases thereof.

3. The narrative shall also include a written cost estimate, showing in detail (quantity, cost per unit, labor rate, etc.) the costs of all site improvements planned. Prevailing wages will be used.
4. Drainage calculations prepared by a registered professional engineer, which conform to the subdivision regulations.
5. The Planning Board may also request a Traffic Impact Assessment, Environmental Impact Assessment, a Fiscal Impact Assessment, and/or a Community Impact Assessment.

***Additional materials may be required, at the discretion of the Town Planner, Zoning Enforcement Officer, or Planning Board.**

6. Floor plan, showing the basic layout of various spaces on each floor (office space, retail space, manufacturing space, warehouse space, etc.).
7. Lighting plan, showing the location of all lighting fixtures, the illumination data to show compliance with Section 6.4, Lighting, of the Spencer Zoning Bylaw and detail drawings of the fixtures to be used, including heights.

B. Minor Site Plan Review.

An application for permits to build, alter or expand any nonresidential building subject to site plan review where such construction will not exceed a total increase in the footprint of the structure by 2,000 square feet, or an application which will not generate the need for more than 20 parking spaces, whichever is less, shall be deemed a "minor site plan." For the purposes of computing the total increase in the footprint of the structure, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall not be subject to a public hearing, but deliberations and decisions must be made by the Planning Board in an open public meeting. Minor site plans shall include all of the information required by Site Plan Review with the following exceptions:

1. A plan that depicts topographical contours at intervals available on maps provided by the United States Geological Survey;
2. The scale of the site plan may be 1" = 80';
3. A utility and open space plan is not required unless new utility service lines are proposed, in which case those shall be shown on the site plan;
4. A landscaping plan is not required unless new or additional landscaping is proposed or is required by the Planning Board to screen the proposed development from public ways and/or abutting properties;
5. A drainage plan and calculations are only needed to comply with any Conservation Commission approval; and

6. A community impact analysis is not required.

Section 7. Stormwater Permit.

The purpose of these Stormwater Regulations is to establish procedures for conducting the business of the Planning Board under its jurisdiction as a permit granting authority for the Spencer Stormwater Bylaw (Spencer General Bylaws, Article 14). Refer to the Spencer Stormwater Regulations, adopted December 20, 2011, last revised May 17, 2016.

If a project requires multiple permits (i.e. Order of Conditions, Site Plan Review, Subdivision Approval, or other projects that go before a permit granting authority) in addition to a Stormwater Permit, such permits shall be applied for at the same time.

A. Major Project Application Requirements for a Stormwater Permit.

1. Topography and drainage plan, showing the existing and proposed final topography at two-foot intervals, plans for handling stormwater drainage, and all wetlands and floodplain areas on the site and within 100 feet of the site.

2. **Stormwater Management Plan:**

A Stormwater Management Plan submitted with the permit application shall contain sufficient information to evaluate the environmental impact and effectiveness of the measures proposed for reducing adverse impacts from stormwater runoff. This plan shall comply with the criteria established in these regulations and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts. The Plan shall fully describe the project in drawings, narrative, and calculations.

The minimum requirements for the Stormwater Management Plan are listed in the Spencer Stormwater Regulations.

3. **Operation & Maintenance Plan**

The maintenance plan shall ensure there is ongoing compliance with the permit and the Massachusetts Surface Water Quality Standards in all seasons and throughout the life of the system. All property owners are responsible for maintaining the proper operation of all permitted stormwater control features on their property. Stormwater structures shall be maintained to ensure compliance with the Permit, this Bylaw and that the Massachusetts Surface Water Quality Standards are met in all seasons and throughout the life of the system.

The minimum requirements for the Operation & Maintenance Plan are listed in the Spencer Stormwater Regulations.

4. A written cost estimate, showing in detail the costs of all stormwater components.
5. Inspection and maintenance agreement.
6. Erosion control and sediment plan.

B. Surety

In cases where the Planning Board is the Stormwater Authority, the Board may require the permittee to post a bond, cash, or other acceptable surety. The form of the bond shall be approved by the Town of Spencer, in an amount deemed sufficient to ensure that the work will be completed in accordance with the permit.

A portion of the bond may be released as each phase of the project is completed in compliance with the permit, but the bond shall not be fully released until the Stormwater Authority has issued a Certificate of Completion.

Section 8. Plan Requirements.

The drawing, map, graphic plan or plans depicting the project must:

1. Be at a scale of not more than 1 inch = 40 ft. Plans extending over multiple sheets to show the whole project area must have a key sheet showing the layout of sheets.
2. Have a scale bar and north arrow.
3. Include existing and proposed topography. The contour interval used must be adequate to represent the changes accurately.
4. Show all stormwater management or drainage structures that discharge or will discharge to a protected resource area or to the Town of Spencer drainage system. Such structures must be shown even if the discharge point is off site.
5. Engineered plans shall be stamped and signed by a Licensed Professional Engineer.
6. The plans shall be dated and revision dates shall be included when applicable.
7. Locus map shall be readable and useable for locating the site.
8. Multiple sheets may be used to show all required information in a readable and useable format.
9. The plans shall list the name of the Licensed Land Surveyor.
10. Existing and proposed structures. Proposed structures are to be marked in the field.
11. Sediment and erosion control type and location.

12. Existing and proposed utilities including water, sewer, electric and utility pole locations and utility pole numbers.
13. For new development, the square footage of contiguous upland, per the Town of Spencer Zoning Bylaw definition for Lot Size or Lot Area.
14. Site layout, showing the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, loading facilities, required setbacks and buffers, fences, walls (including existing or proposed stone walls), walks, outdoor lighting, and areas for snow storage after plowing.
15. Utility and open space plan, showing all facilities for refuse and sewerage disposal and storage of all wastes, the location of all hydrants, fire alarm and firefighting facilities (including fire lanes) on and adjacent to the site, all proposed recreational facilities, and open space areas, including burial grounds and other archeological or historical features on the site.
16. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and proposed erosion control measures (including dust control during construction).
17. Details as needed to show specific information such as but not limited to cross sections of driveways, roads, parking areas, and sidewalks; lighting fixtures; signage; and drainage facilities.
18. Details will be provided on and fences, retaining walls, drainage structures, erosion controls, and signage.

Additional information may be required based upon the proposed project.

Section 9. Certificate of Completion.

Upon completion, the applicant is responsible for certifying (by a professional engineer) that the completed project is in accordance with the approved plans and specifications. The applicant shall provide seven (7) copies of an as-built plan for review in addition to a formal letter requesting a Certificate of Completion.

The Planning Board will review the request at a public meeting. Third-party review may be required, at the expense of the applicant. A majority vote of the Planning Board is required prior to the issuance of a Certificate of Completion by the Town Planner.

The Town Planner will issue a Certification of Completion in the form of a letter, indicating the following:

1. The conditions of the permit have been met.
2. The final inspection and reports have been accepted by the Planning Board.

3. A determination that all work specified by the permit has been satisfactorily completed in conformance with the Spencer Zoning Bylaw, Subdivision Regulations, and Stormwater Regulations.
4. If all conditions have not been met, an explanation shall be provided.

Section 10. As-Built Plan Requirements.

In the instance where an as-built plan is required prior to issuance of a Certificate of Completion, the applicant shall submit a plan for review no less than thirty (30) days prior to the requested public meeting. A public hearing will not be required.

The drawing, map, or plan must include:

1. Be at a scale of the approved plan on file.
2. Include existing topography. The contour interval used must represent the interval as shown on the approved plan. This requirement may be modified by the Planning Board.
3. Engineered plans shall be stamped and signed by a Licensed Professional Engineer. For Large Scale Solar Photovoltaic Generating Installations, the plans shall be stamped by a Licensed Professional Electrical Engineer.
4. Any deviations from the approved plan shall be clearly marked. For major deviation and overlay must be provided in a contrasting color that shall provide the deviation from what was approved.
5. For any decision that underwent third-party review by the Planning Board's Consultant, an as-built review shall be conducted at the applicant's expense.

Section 11. Waivers

The Board may waive strict compliance with these regulations if: such action is allowed by federal, state and local statutes; is in the public interest; and is consistent with the purpose of the Spencer Zoning Bylaw, Subdivision Regulations, and Stormwater Bylaw. Any applicant may submit a written request for a waiver, accompanied by supporting information explaining how the waiver will comply with the purpose of the Stormwater Bylaw.

Section 12. Electronic Signatures

The Planning Board recognizes and accepts the provisions of M.G.L. c.110G regarding electronic signatures and henceforth will execute documents either with electronic signatures or with wet ink signatures and that both will carry the same legal weight and effect.

Section 13. Revised Documents Deadline

It is the policy of the Planning Board that revised documents shall be submitted at least seven (7) days prior to the public hearing/public meeting date in order to allow for review by the Planning Board, Town Planner, third-party reviewers, and any other interested party.

Revised documents submitted less than seven (7) days prior to the scheduled public hearing/public meeting date shall cause the public hearing/public meeting to be continued.

Article VI

Finances and Personnel

Section 1. Expenditures.

A. Revolving Account. Pursuant to the actions of the most recent Annual Town Meeting, the Planning Board may have the use of a revolving account for the purposes of funding its activities. Receipt of application fees shall fund this account and expenditures shall be made upon the recommendation of the Town Planner and the approval of the Planning Board for administrative costs associated with the duties of the Board.

B. Reimbursement for expenses. Expenses incurred in the performance of official duties approved in advance by the Board shall be made to members of the Board and staff upon submission to the Town Planner of vouchers supported by receipts.

Section 2. Personnel and Consultants.

A. Town Staff. The Office of Development & Inspectional Services shall provide professional and clerical services to the Planning Board, at the sole discretion of the Town Planner.

1. Professional services shall be provided by the Town Planner, who shall function as primary assistant to the Board.
2. The Clerk shall be a member of the staff of the Town's Office of Development & Inspectional Services and shall be subject to the employment policies of the Town and act under the direction of the Town Planner. The Clerk is not eligible to vote or to deliberate in the proceedings of the Board. The Clerk shall:
 - a. Publish and post notices of all meetings of the Board;
 - b. Assist the Town Planner with the preparation of meeting agendas;

- c. Distribute the agenda, prior minutes and other relevant materials to each Board Member in advance of each meeting;
- d. Prepare written minutes of Planning Board meetings for approval by the Board at its next regular meeting, unless otherwise determined by the Town Planner; and
- e. Maintain the Board's notices, correspondence, reports, and forms as public records for a period of time consistent with the records retention schedule of the Town of Spencer.

B. Consultants. The Town Planner, with the concurrence of the Planning Board, may recommend to the Town Administrator the need for hiring consultants needed to assist the Board in completing its duties for special projects.

Such consultants shall assist the Planning Board, or any Town board or commission to which a matter is referred for review and comment prior to action by the Planning Board, both in plan review, impact analysis, inspection, or other technical assistance necessary to ensure compliance with all relevant laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring, or inspecting a project or site for compliance with the Board's decisions, conditions, or regulations, or inspecting a project during construction or implementation. Such consultants shall be selected and retained by the Planning Board, with the actual and reasonable costs for their services to be paid by the applicant.

In hiring outside professional expertise and/or consultants, the Board may engage engineers, planners, lawyers, urban designers, regional planning agencies or other appropriate professionals who are qualified and capable of assisting the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations.

Section 3. Fees.

All applications shall be accompanied by the appropriate administrative fee and consultant review fee where required.

- A. Applicants shall reference the Planning Board Fee Schedule. The applicant shall bear the cost of the legal notice fee, to be included in the administrative fee. The notice shall be prepared by the Planning Department; however the responsibility to notify abutters shall lie with the applicant.
- B. The applicant shall pay all associated costs of mailing to abutters by means of certified mail.
- C. If it is found that the hearing must be readvertised, the applicant shall bear the cost of the legal notice fee and shall be responsible for notifying all abutters.

Article VII
Adoption, Repeal and Amendment

Section 1. Adoption and Repeal.

These *Rules of Procedure* contained herein were adopted by at least a majority vote of the members of the Town of Spencer, Massachusetts Planning Board sitting at a regular meeting.

Section 2. Amendment.

These *Rules of Procedure* may be amended at any regular meeting of the Planning Board by a majority vote of its members held at least seven (7) days after a written draft of the amendment is delivered to all members.

For the Planning Board
Town of Spencer, Massachusetts

By: Robert Ceppi
Robert Ceppi, Chairperson

Date of Approval: 1-2-24

APPENDIX A

The Ten Purposes for Executive Session

The Open Meeting Law states ten specific purposes for which an executive session may be held and emphasizes that these are the only reasons for which a public body may enter executive session.

The ten purposes for which a public body may vote to hold an executive session are:

1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.

This purpose is designed to protect the rights and reputation of individuals. Nevertheless, where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this purpose triggers certain rights for the individual who is the subject of the discussion. The individual has the right to be present, though he or she may choose not to attend. The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and that choice takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this purpose, this purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.

Generally, a public body must identify the specific non-union personnel or collective bargaining unit with which it is negotiating before entering executive session under Purpose 2. A public body may withhold the identity of the non-union personnel or bargaining unit if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

While a public body may agree on terms with individual non-union personnel in executive session, the final vote to execute such agreements must be taken by the public body in open session. In contrast, a public body may approve final terms and execute a collective bargaining agreement in executive session but should promptly disclose the agreement in open session following its execution.

Collective Bargaining Sessions: These include not only the bargaining sessions, but also include grievance hearings that are required by a collective bargaining agreement.

3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.

Generally, a public body must identify the collective bargaining unit with which it is negotiating, or the litigation matter it is discussing before entering into executive session under Purpose 3. A public body may withhold the identity of the collective bargaining unit or name of the litigation matter if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Collective Bargaining Strategy: Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion may have a detrimental effect on the collective bargaining process; the body is not required to demonstrate a definite harm that would have arisen. At the time the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

Litigation Strategy: Discussions concerning strategy with respect to ongoing litigation obviously fit within this purpose but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

Note: For the reasons discussed above, a public body's discussions with its counsel do not automatically fall under this or any other purpose for holding an executive session.

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto.

5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints.

This purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal complaints or charges, but only those that have already been brought. However, Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. Purpose 5 does not require that the same rights be given to the

person who is the subject of a criminal complaint. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which purpose to invoke when going into executive session.

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.

Generally, a public body must identify the specific piece of property it plans to discuss before entering executive session under Purpose 6. A public body may withhold the identity of the property if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Under this purpose, as with the collective bargaining and litigation purpose, an executive session may be held only where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.

There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality. A public body may withhold that information only if publicly disclosing it would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening.

This purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This purpose does not apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body. It may, however, include a review of résumés and multiple rounds of interviews by the screening committee aimed at narrowing the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain less than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved, and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided:

- in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164;
- during activities conducted as a municipal aggregator under section 134 of said chapter 164; or
- in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
- when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.



APPENDIX B

TOWN OF SPENCER OFFICE OF THE TOWN CLERK ADJUDICATORY HEARINGS FORM

General By-Laws:

Section 14: Adjudicatory Hearings

A. Authority: This by-law is adopted under the authority of Town acceptance of MGL Ch. 39 § 23D.

B. Applicability: The provisions contained herein shall apply to any adjudicatory hearing of the following Boards, Committees, or Commissions:

- Planning Board
- Zoning Board of Appeals
- Conservation Commission
- Select Board

For the purposes of this by-law, an adjudicatory hearing means any proceeding in which the legal rights, duties, or privileges of specifically named persons are required by constitutional right, any provisions of the General Laws or any by-law to be determined after opportunity for a hearing at a "Meeting" as defined in MGL CH. 39 § 23A.

C. Quorum Not Defeated: Nothing in this section shall change, replace, negate, or otherwise supersede applicable quorum requirements.

D. Attendance & Certification Required for Voting: A member of any of the Boards, Committees, or Commissions enumerated herein shall not be disqualified from voting in the matter which is the subject of an adjudicatory hearing provided that (a) they are absent from no more than a single session of the hearing at which testimony or other evidence is received, or debate and deliberation is conducted, and (b) before any such vote they certify in writing, with the Town Clerk upon a form to be prepared by the Town Clerk, that they have examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof, together with any documents submitted at said missed session relative to the matter being considered. The written certification shall be part of the record of the hearing and the vote shall be void if said certification has not been filed with the Town Clerk prior to said vote.

This by-law shall be effective April 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

I have reviewed this By-Law and have met all necessary requirements.

Signed under the penalty of perjury.

Date: _____

Signature: _____

Print Name: _____

For the meeting of the _____ held on _____