GENERAL BY-LAWS

OF

TOWN OF SPENCER

Adopted May 7, 1992

As of STM Nov. 7, 2019
AG Approval Posted February 7, 2020

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ARTICLE 1
Town Meetings and Elections

Section 1. Town Meetings; Elections; and Terms of Office
(Amended 10/16/2008 Art. 9)

Town Meetings and elections shall be held at the call of the Board of Selectmen unless otherwise specified herein or in state statute.

The Annual Town Meeting shall be held on the first Thursday of May of each and every year.

The Annual Election of those Town Officers required to be elected by ballot, by state statute or these by-laws, shall be held on the second Tuesday in May of each year. The term of the Town Clerk and the Treasurer/Collector shall commence on the July 1st of the year so elected and expire on June 30th in the year for which the term at issue was warned. The term of all other Town Officers shall commence as soon as the Town Officer is qualified for office by the Town Clerk, after the Annual Election, and shall continue until the successor for the office is qualified in the year for which the term at issue was warned. The Town Clerk shall notify all Town Officers of any amendments to this by-law;

And further, that the revised by-law shall take effect with the Annual Election in May, 2009.

Section 1A. There shall be a Board of Selectmen consisting of five (5) members elected by the voters for three year terms, so arranged that the term of office of at least one member, but not more than two members, shall expire each year. This shall be effective as of the 1994 Annual Town Election. (Added 5/6/93 Art.32).

Section 2. Polling Hours

The polls for all town elections shall open no earlier than 5:45 AM and no later than 12:00 PM; the polls shall close no later than 8:00 PM and shall be open at least four hours, as provided by Massachusetts General Laws.

Section 3. Posting of Warrants

All warrants for State elections shall be served by posting an attested copy; Annual and Special Town Meetings shall be served by posting an attested copy in at least three (3) public places at least seven (7) days prior to the Annual Town Meeting or an Annual or Special Election, and at least fourteen (14) days prior to any Special Town Meeting.

Section 4. Quorum

For all special Town Meetings a quorum of 50 voters and for all Annual Town Meetings a quorum of 100 voters shall be required for such meetings.

Section 5. Conduction of Town Meetings

"Town Meeting Time and Hand Book on Parliamentary Law" shall be used for conducting of town meetings.

Section 6. Town Meeting Articles

Any article that is voted on at the Annual Town Meeting may not be brought up again except at the next Annual Town Meeting, or at any town meeting,

1. in case of emergency as determined by the Board of Selectmen; or,
2. on petition of 100 registered voters.

Section 7. Secret Ballot

If requested by ten percent (10%) of the voters required for a quorum at any town meeting, the Moderator shall determine by a hand vote if a majority desire that the vote be taken by secret ballot on any article placed before any town meeting.

Section 8. Penalty for Breach of By-law

The penalty for the breach of any By-law of the Town of Spencer shall be a fine not exceeding three hundred dollars ($300.00) for each offense.

Section 9. Repeal of Previous By-laws

All General By-laws adopted by the Town prior to the acceptance of these by-laws are hereby repealed.

Section 10. Collective Bargaining Issues Submitted for Town Warrant

No collective bargaining unit may submit for the Town Warrant any addition to, modification of, or deletion from the current bargaining agreement with the Town.

Section 11. Two-Thirds Vote Requirement

"On matters requiring a two-thirds vote by statute a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, Section 15, or as otherwise provided in these By-laws". (Added 5/8/97 Art.24).

ARTICLE 2
Town Administration

Section 1. Town Hall Office Hours

All Town Hall offices staffed by two or more persons shall be open during the hour of 12:00 Noon to 1:00 PM to better serve the public.

Section 2. Procurement Officer

Unless otherwise provided by vote of the Town Meeting, the Board of Selectmen, consistent with the provision of M.G.L. Chapter 30B, is authorized to appoint a Chief Procurement Officer, without additional expense to the Town, as defined in Chapter 30B to act as a purchasing agent to procure all supplies and services for the Town and every governmental body thereof, with authority to delegate said responsibility as permitted by Chapter 30B.

Section 3. Town Audit

There shall be an annual audit of the Town's accounts under the supervision of the Director of Accounts of the Department of Corporations and Taxation in accordance with the provisions of Section 35, Chapter 44, Massachusetts General Laws.

Section 4. Sale of Town Property

The Board of Selectmen is hereby authorized to sell and transfer title in the name of the Town for any land obtained through tax foreclosures, land obtained in lieu of taxes and land obtained as a gift, with prior notification of the Conservation Commission. They shall give notice of the time and place of sale by posting a notice of sale on the Town Bulletin Board outside the Town Clerk's office and advertising in a newspaper in general circulation 14 days at least before the sale and may reject any and all bids which they deem inadequate.

Section 5. Collection of Fees

Except as otherwise provided by law, all fees collected by any officer of the Town on behalf of the Town shall be paid to the Town Treasurer; and a true return thereof shall be made to the Town Accountant stating the accounts upon which such amounts were received.

Section 6. Settlement of Claims

The Board of Selectmen is hereby authorized to prosecute, defend or settle all suits or claims for and against the Town.

Section 7. Town Records

All Town records shall be kept in the Town Hall or in the offices of the various departments.

Section 8. Local Licenses and Permits – Failure to Pay Municipal Taxes or Charges
(Amended 05/04/2006 Art. 13) (Amended 11/27/2018 Art. 22)

1. Applicability

Any board, officer, or department of the Town of Spencer is hereby authorized to deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers, for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of Massachusetts General Laws chapter 40, section 21D, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

2. Certified List of Delinquent Property Owners & Service Users

The Town Collector of Taxes shall furnish to each department board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a sixth month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

3. Licensing Authority Action and Appeal

The licensing authority may deny, revoke, or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the town collector of taxes or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the town collector of taxes; provided, however, that written notice is given to the party and the town collector of taxes, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation, or suspension of said license or permit to any party. The town collector of taxes shall have the right to intervene in any hearing conducted with respect to such license denial, revocation, or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the town collector of taxes that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the

validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A of the Massachusetts General Laws in the business or activity conducted in or on said property.

4. Exemptions

The following licenses, approvals, and permits shall be exempt from the provisions of this by-law:

1. Open burning
2. Bicycle permits
3. Sales of articles for charitable purposes
4. Children work permits
5. Clubs, associations dispensing food or beverage licenses
6. Dog licenses
7. Fishing, hunting or trapping licenses
8. Marriage licenses
9. Theatrical events, public exhibition permits
10. Endorsement of ANR plans
11. Preliminary or Definitive Subdivision Plan applications
12. Variance requests
13. Orders of condition for any application before the Conservation Commission

This amendment shall take effect on January 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

Section 9. Town Expenditures Subject to Bids

The Town shall follow the Uniform Procurement Act, Chapter 30B of the Massachusetts General Laws, with respect to every contract for the procurement of supplies, services or real property and for disposing of supplies or real property. All officers and departments may request bids or proposals prior to the insertion of articles in any warrant for any Annual or Special Town Meeting. (Amended 5/8/97 Art.34)

Section 10. Additional Funding

Any request by a department head to the Board of Selectmen for additional funding for his/her department or a request for transfers to be made from one account to another within said department must be accompanied by a complete explanation as to why the request is being made. A copy of the explanation shall accompany the request at the time the request is presented to the Finance Committee for its consideration and recommendation.

Section 11. Residency Requirement – Administrative Officers

The Chief of Police, Fire Chief, Superintendent of Public Works and Town Administrator shall reside within 15 miles of the limits of the Town of Spencer within six (6) months from the date of completion of any probationary period of employment. Said distance shall be measured from the closest border limits of the city or town in which said employee lives. (Amended 11/6/97 Art. 1)

Section 12. Employment Contracts (Amended 10/16/2008 Art. 10, 11/7/19 Art. 16

The Town Administrator may negotiate and execute an employment contract for a period of time not to exceed three years to provide for the performance standards, salary, fringe benefits, and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performances of duties of office, liability insurance, performance standards, and leave for all department heads, the Town Accountant, and the Inspector of Buildings, and Police Lieutenant. Such employment contract shall be subject to Board of Selectmen action under the procedures set forth in Section 8 of the Spencer Governmental Act and an appropriation of funds. Such employment contract shall be in accordance with and subject to the provisions of the Spencer Governmental Act and shall prevail over any conflicting provisions of any town personnel by-law, rule, or regulation.

And further, that revised by-law shall take effect as of July 1, 2009.

Section 13: Utility Fund Establishment and Maintenance (Added 11/17/2005 Art. 12)

Funds received and expended on behalf of the Water Fund and the Sewer Fund shall be accounted for in a Utility "Enterprise Fund" in accordance with M.G.L. Ch. 44 §53F ½, Generally Accepted Accounting Practices and such regulations and accounting standards as may from time to time be established by the Town Accountant and Massachusetts Department of Revenue.

Effective Date: This by-law amendment shall be effective July 1, 2006, upon approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 §32.

Section 14: Adjudicatory Hearings (Added 11/16/2006 Art. 12 and posted 02/28/2007)

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
SelectBoard

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.

Section 15. DEPARTMENTAL REVOLVING FUNDS (added ATM 5/4/17 Art 7 approved 7/24/27, amended 11/7/19 Art 18

1. Purpose. This bylaw establishes and authorizes revolving funds for use by town departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, §53E½.

2. Expenditure Limitations. A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:

    A. Fringe benefits of full-time employees whose salaries are paid from the fund shall also be paid from the fund.
    B. No liability shall be incurred in excess of the available balance of the fund.
    C. The Total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the SelectBoard and Finance Committee.

3. Interest. Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the General Fund.

4. Procedures and Reports. Except as provided in General Laws Chapter 44, §53E½ and this bylaw, the laws, charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditure and payment of town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to the

fund, the encumbrances and expenditures charged to each fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

5. Authorized Revolving Funds. The Table establishes:
   A. Each revolving fund authorized for use by a town department, board, committee, agency or officer;
   B. The department or agency head, board, committee or officer authorized to spend from each fund;
   C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant;
   D. The expense of the program or activity for which each fund may be used,
   E. Any restrictions or conditions on expenditures from each fund;
   F. Any reporting or other requirements that apply to each fund, and;
   G. The fiscal years each fund shall operate under this bylaw.

Revolving Fund	**Department, Board, Committee, Agency or Officer Authorized to spend from Fund**	**Fees, Charges or Other Receipts Credited to the Fund**	**Program or Activity Expenses Payable from Fund**	**Cap of Fund**	**Fiscal Years**
Planning Board	Planning Board	ANR, Subdivision, Other Permit Fees	Administrative Costs, other Expense	$50,000	FY 2018 and subsequent years
ODIS – Wiring Inspections	ODIS Director	Depository of 80% of electrical permit fees collected	Compensate the Wiring Inspector	$50,000	FY 2018 and subsequent years
Parks & Recreation	Parks & Recreation Commission	Park rentals, sticker fees, program fees	Program costs such as personnel, utilities, supplies, and other expenses	$100,000	FY 2018 and subsequent years
Celebrations Committee	Town Administrator	Donations, gifts and fees collected	Program Expenses	$50,000	FY 2018 and subsequent years
Council on Aging	Council on Aging	Donations, gifts, and fees collected	Program Expenses	$20,000	FY 2018 and subsequent years
Stormwater Management	Town Administrator	Stormwater Fees and fines collected	Stormwater Management Activities such as programs or projects	$100,000	FY 2018 and subsequent years

ARTICLE 3
Town Clerk

Section 1. Certification of Appropriations

The Town Clerk shall certify to the Board of Assessors and the Town Accountant votes appropriating money and the provisions made for raising same. He/she shall notify all boards, officers and committees of all votes passed at any Town Meeting in any way affecting them.

Section 2. Record Keeping

The Town Clerk shall be responsible for the safe keeping of all books, papers, plans and records which may be deposited in the Town vault and shall not allow any of them to be taken from his/her custody.

Section 3. Publication in Annual Report

The Town Clerk shall publish in the annual report of the Town a summary of the proceeding of all town meetings that have been held during the year.

Section 4. General Responsibilities

The Town Clerk shall perform all duties set forth in the Massachusetts General Laws, those required by the Secretary of State and the Registry of Vital Statistics and those dictated by Town Meeting vote.

Section 5. Numerical Assignations and Editorial Revisions *(Amended 5/7/15 Art. 26)*

The Town Clerk is authorized to assign appropriate numbers to by-law section, subsections, paragraphs, and subparagraphs, where none are approved by Town Meeting, and, if such are approved by Town Meeting, after consultation with the Town Administrator, to make non-substantive, editorial revisions to ensure consistent and appropriate sequencing and numbering, provided such editorial revisions shall be identified by a footnote or other convention.

ARTICLE 4
Finance Committee

Section 1. Establishment, Terms and Conflicting Service
(rev. 11/18/04 Art. 6) (rev. 10/7/10 Art. 1)

There shall be a Finance Committee consisting of eleven (11) residents of the Town. They shall be appointed by the Moderator who shall serve also as a additional non-voting Ex-Officio member. A term shall run from July 1 of a year through June 30 of an ending year. The terms shall be staggered such that no fewer than three (3) members shall have their terms expire on June 30 of the ending year.

Members shall serve until their successor is appointed and duly qualified. A vacancy in an appointed position shall be filled for the balance of the unexpired term of the vacant position.

Town Officers and Town employees**,** other than the Moderator, elected or appointed, are not eligible to be members. Any member of said committee who shall be elected or appointed to Town office, except as provided for herein**,** shall forthwith, upon his qualification in such office, and any other member who shall move from Town shall, upon moving, cease to be a member of said committee. Members absent from one-third of the called meetings in any fiscal year may, after notice of no less than 14 days, be removed by a two-thirds vote of the committee present and voting at the next regularly scheduled meeting after said notice has been sent. Members of the committee, except the secretary, shall serve without compensation. Said committee shall choose its own officers.

Members may serve upon the Personnel Board and any Committee for which membership is specifically provided for in these By-laws. In addition, Members may serve upon temporary ad hoc committees convened for a single purpose, such as the screening of applications for employment or appointment and examination of policy issues, when such bodies will be dissolved upon the completion of their work.

Section 2. Vacancies

In the event of a vacancy in its membership, the Finance Committee member resigning shall notify the Town Clerk in writing, if possible. Otherwise, the Finance Committee shall notify the Town Clerk in writing; the Moderator shall thereupon fill such vacancy for the unexpired term.

Section 3. Recommendations

The Finance Committee shall consider all matters of business included within the articles of any warrant for a town meeting and shall, after due consideration, report thereon, in a report printed and distributed, its recommendation as to each article. For the annual town meeting the Finance Committee shall distribute its report at least four days in advance of the meeting. The recommendations shall be those of a majority of the members of the committee present and voting but this shall not be construed to prevent recommendations by a minority. The report shall state the total amount of the appropriations recommended by them on the entire warrant. The report for the Annual Town Meeting shall contain a statement of the doings of the committee during the past year along with such suggestions as it may deem advisable on any

matters pertaining to the welfare of the Town. It may issue recommendations on referenda and other matters on any ballot other than the choice of individuals for office.

Section 4. Inspection of Records

The Finance Committee shall have the authority at any time to investigate the books, accounts and management of any department of the Town, and to employ such experts and other assistance as they may deem advisable for that purpose; and the books and accounts of all departments and officers of the Town shall be open to the inspection of the committee and any persons employed by it for that purpose. The committee may summon the attendance of witnesses under M.G.L. Ch. 233 Secs. 8.10. The committee may appoint sub-committees of its members and delegate to them such of its powers as it deems expedient.

Section 5. Submission of Estimates

The various Town boards, officers and committees charged with the expenditure of Town money shall, not later than February 1st of each year, prepare detailed estimates of the amounts deemed by them necessary for the administration of their respective offices or departments for the ensuing year.

Section 6. Budget Recommendations

The Finance Committee shall duly consider the estimates and statements filed by the Town boards, officers and committees and may confer with said boards, officers and committees and hold hearings if they deem it advisable. The Finance Committee shall thereupon recommend such sums in such division of items as it considers necessary and convenient.

Section 7. Public Hearing on Budgets

The Finance Committee shall hold a public hearing on the proposed annual budget at least two (2) weeks prior to the Annual Town Meeting.

ARTICLE 5
Other Committees, Commissions, Officers

Section 1. Council on Aging

There is hereby established a Council on Aging consisting of from seven (7) to eleven (11) citizens of this Town, appointed by the Board of Selectmen for terms not to exceed four (4) years for any member. Said terms shall be staggered so that no more than three (3) appointments shall be made in any calendar year. Members can be reappointed for concurrent terms. The duties of said Council on Aging shall be to:

1. Identify the total needs of the community's elderly population;
2. Educate the community and enlist support and participation of all citizens concerning these needs;
3. Design, promote or implement services to fill these needs, or coordinate present existing services in the community;
4. Promote and support any other programs which are designed to assist elderly programs in the community.

Said Council on Aging shall cooperate with the Commonwealth of Massachusetts Office of Elder Affairs and shall be cognizant of all state and federal legislation concerning funding, information exchange and program planning which exists for better community programming for the elderly. Said Council on Aging shall give an annual report to the Board of Selectmen with a copy of that directed to the Commonwealth of Massachusetts Officer of Elder Affairs.

Section 2. Charitable Needs Commission

There is hereby established a Charitable Needs Commission consisting of five (5) citizens of Spencer appointed by the Board of Selectmen for terms not to exceed three (3) years for any member. Said terms shall be staggered so that not more than three (3) appointments shall be made in a calendar year. Members can be reappointed for successive terms. The duties of the Charitable Needs Commission shall be to:

1. To administer funds for the elderly and needy of the Town according to the manner established by wills or previous town meetings for the Melinda A. Prouty Fund, the Harrington Fund and the fund established for free hospital beds at Memorial, St. Vincent and Hahnemann hospitals in the City of Worcester, or any other charitable funds;

2. To administer the Drury Fund effective on the date of the 1980 Annual Town Elections;

3. To render to the Annual Town Meeting in each year, beginning 1980, a report of its doings for the foregoing year.

Section 3. Capital Improvement Planning Committee
(Amended 5/6/2004 Art. 14, 5/2/2019 Art. 30)

1. There shall be established a committee to be known as the Capital Improvement Planning Committee (hereafter, the "Committee") composed of the following Spencer registered voters:

one (1) member of the SelectBoard,
one (1) member of the Finance Committee,
one (1) member of the Planning Board,
two (2) at-large inhabitants of the Town of Spencer,

The Town Administrator and one person to be selected by the Town Administrator from among the Board of Assessors, Town Accountant, Town Collector and Town Treasurer, will also serve on the Committee, ex-officio, without voting privileges. A member appointed by the Spencer East Brookfield School Superintendent, in consultation with the School Committee, may also serve in an ex-officio capacity.

Neither of the two (2) at-large inhabitants of the Town of Spencer, above designated, may be employed by the Town of Spencer or serve the Town in any other elective or appointive capacity or have members of their immediate family who are so employed or so serve. Immediate family is defined to mean the inhabitant, his or her spouse or spousal equivalent, parents**,** children**,** brothers and sisters.

The SelectBoard, Finance Committee and Planning Board members will serve initially until the following June 30th and thereafter for one year terms to expire on June 30th of each succeeding year. One at-large inhabitant member will serve initially until the second June 30th date following appointment and thereafter for three year terms. The second at-large inhabitant member will serve initially until the third June 30th date following appointment and thereafter for three year terms.

The committee will choose its own officers at such times as it will determine by majority vote.

2. The Committee will study the proposed capital projects and improvements involving tangible assets and projects which (1) have a useful life of not less than five years and (2) cost over $10,000 [or such other sum which conforms with Statement #34 of the Governmental Accounting Standards Board (GASB 34) or such future equivalent capitalization schedules]. All officers, boards and committees of the Town, including the School District, Water Department, Sewer Department and any enterprise fund department, will give to the Town Administrator by January 15th of each year, on forms prescribed by the Committee, information and requests concerning all of its anticipated projects requiring Town Meeting action during the ensuing ten years. On or before the following March 1st, the Town Administrator will assemble the information and requests submitted to him or her and present the same to the Committee for its deliberation and action. The Committee will consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the Town and thereafter render its Report and recommendations to the Town Administrator as set forth in Section 3 hereof.

No appropriation at an Annual Town Meeting will be voted for a capital improvement purchase or project requested by a department, board or commission unless the proposed capital

improvement is considered in the Committee's Report (as set forth below) or the Committee has submitted a report to the Town Administrator explaining the omission. It is the intent of this paragraph that no capital improvement purchase or project will be made or undertaken unless the same has been previously considered by the Committee. This provision is not applicable to any capital improvements placed on the town meeting warrant by citizen petition, as governed by the Massachusetts General Laws.

In the case of an unusual, unanticipated or emergency capital improvement request that arises after the March 1st deadline, such request will be submitted to the Committee for consideration. The Committee will make its recommendation to the Town Administrator as to what further action may be necessary.

3. The Committee will prepare an annual report recommending a Capital Improvement Budget for the next fiscal year and a Capital Improvement Program, including therein its recommended capital improvements for the following ten years. The Report will be submitted to the Town Administrator for his or her consideration and approval, after consultation with the SelectBoard. The Town Administrator will thereafter submit his or her approved Capital Budget to the Annual Town Meeting for adoption, in whole or in part, by the Town.

4. Such Capital Improvement Program, after its approval by the Town Administrator, will permit the expenditure on projects included therein from departmental budgets for preliminary or ancillary matters relating to the project or purchase, such as for surveys, architectural or engineering advice, options or appraisals; but no such expenditure will be incurred which have not been so approved by the Town through the appropriation of sums in the current fiscal year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

5. The Committee's Report and the Town Administrator's recommended Capital Budget will be published and made available in a manner consistent with the distribution of the Finance Committee Report. The Committee will deposit its original Report with the Town Clerk.

6. No appropriation at a Special Town Meeting will be voted for a capital improvement purchase or project requested by a department, board or commission unless the proposed capital improvement has been presented to the Committee for its consideration.

Section 4. Inspector of Gas Piping and Appliances

The Board of Selectmen shall annually appoint an Inspector of Gas Piping and Appliances in buildings as provided under Chapter 143, Section 3-0 of the General Laws who shall be a licensed plumber or a licensed gas fitter. Said Inspector shall enforce the Rules and Regulations adopted by the Board established under Section 12H of Chapter 25 of the General Laws.

Section 5. Inspector of Buildings (Amended 5/6/2004 Art. 12)

The Inspector of Buildings shall be appointed for a term of three years.

Section 6. Fire and Emergency Services Department (Amended 5/4/2006 Art.11).

There shall be established in the Town of Spencer a Fire and Emergency Services Department which shall be under the supervision of an officer designated as the Chief. Such a Chief shall be appointed for a term of three (3) years.

The Chief shall, from time to time, make suitable regulations governing the Fire Department and the members thereof, subject to the approval of the Board of Selectmen; provided, however, that such regulations shall become effective without such approval upon the failure of the Board of Selectmen to take action thereon within thirty days after they have been submitted to it by the Chief.

The Chief shall be in immediate control of all property used by the Fire Department, and the personnel, officers and firefighters, to whom the Chief shall assign their respective duties including making special duty assignments and who shall obey the Chief's orders. Subject to the provisions of the Spencer Governmental Act, the Town Administrator shall appoint the Chief and other personnel, officers and firefighters and may remove them for cause at any time after a hearing.

The Board of Fire Engineers is hereby abolished with the adoption of this by-law. All current employees in the Fire Department will retain their current rank subject to their promotion, resignation, other vacating of their office, or their termination/demotion for cause.

Upon the effective date of this amendment, the department shall have all of the powers, functions, duties, and responsibilities now vested by any general or special law or by-law in, or exercised by, the Spencer Emergency Management Agency, and all records, property, equipment and facilities owned by the town and under the control of said Agency, which is hereby abolished, shall be transferred to and be under the control of the department. No existing contract or liability shall be affected by this amendment, and the department shall be the lawful successor of the Agency so abolished. Personnel in the Agency at the time of the effective date of this amendment will retain their current rank subject to their subsequent promotion, demotion, layoff, termination, resignation, or other vacating of their position.

This amendment shall take effect on January 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

Section 7. Parks and Recreation Department (Amended 10/27/11 Art.4)

1. Establishment, Composition, and Terms:

There shall be established in the Town of Spencer, a Parks and Recreation Department which shall operate under the oversight of a Parks and Recreation Commission, subject to the provisions of the Spencer Governmental Act. The Commission shall consist of seven members

who shall serve for a term of three years. A term shall run from July 1 of a year to June 30 of an ending year. Members shall be eligible to serve successive terms.

Three (3) of the members shall be elected at the Town's annual general election. The initial filling of these positions shall be from those persons holding the office of Park Commissioner on the effective date of this by-law, and for such terms as originally voted, subject to extension of a term to June 30 of the calendar year in which it was to have expired.
If a vacancy occurs in any of these elected positions, the remaining members of the Commission shall give written notice thereof, within 30 days of said vacancy, to the Town Administrator who shall schedule a joint meeting of the Board of Selectmen and all of the remaining members of the Commission to fill such vacancy by roll call vote. A majority of the votes of all the officers entitled to vote shall be necessary to fill such vacancy. The person so elected shall be a registered voter of the Town and shall serve until the next general election. At such a general election, the position shall be listed on the ballot for the balance of the unexpired term. As used in this paragraph, the term "vacancy" includes a failure to elect.

Four (4) of the members shall be appointed. They shall serve until their successor is appointed and duly qualified. A vacancy in an appointed position shall be filled for the balance of the unexpired term of the vacant position.

The initial appointments shall be drawn from those willing to accept appointment from among the current members of the Athletic Field Committee, Youth Commission and Recreation Commission. No more than three persons may come from each of these three entities being incorporated into the Commission. Vacant positions remaining after this process may then be filled from new applicants.

The initial appointments shall be staggered such that one third of the appointed members shall serve for one year or portion thereof, one third of the appointed members shall serve for two years or portion thereof, and one third of the appointed members shall serve for three years or portion thereof, such that each term shall end on the 30th day of June.

4. Purpose:

The Commission shall be a policy-making board responsible for providing year-round high quality indoor and outdoor recreation activities for children and adults with varying interests and physical abilities. It shall deliver diverse culturally, socially, mentally and physically based programs. The Commission shall establish suitable policies, and guidelines, relating to the programs it shall offer, and the use, maintenance, and improvement of the facilities under its oversight.

3. Organization and Staffing:

Upon its creation, and annually at its first business meeting in July thereafter, the Commission shall elect a Chairman and Clerk from amongst its members. The Clerk shall act as Chairman in his or her absence. The Commission shall oversee such supervisory and programmatic staff as the Town shall provide for by appropriation.

4. Facilities:

It shall have oversight of the following facilities:

Luther Hill Park
O'Gara Park
Powder Mill Park
Ralph Warren Park
Bemis Memorial Park
Isaac Prouty Park
South Spencer Rail Trail

together with such facilities which may subsequently be assigned to it by action of the Town Meeting, Board of Selectmen or Town Administrator in keeping with their statutory authority. It shall advise the Board of Selectmen and Town Administrator on properties which should be acquired to further the mission of the Department.

It shall also have the power to conduct programs and activities at places other than such specifically designated facilities.

Such facilities are dedicated for the purposes of parks, playgrounds and recreation, consistent with any conditions or restrictions specified in the grant or acquisition of the property. With this dedication, the Commission is charged with exercising the highest level of land stewardship and protection while utilizing the historic, natural and man-made features of the facilities for the additional purposes of education, cultural activity and as tools of community and economic development on behalf of the community at large. The Commission shall consult, as deemed advisable and appropriate, with other local, state, federal and public interest groups to ensure such responsibility is met.

5. Other Authority:

The Commission shall be authorized to accept grants and gifts of funds and other real and personal property and expend the same, in the name of the Town subject to the approval of the Board of Selectmen, for the purposes of laying out, improving, ornamenting, and maintaining the facilities and providing programs consistent with the purposes it is charged with herein.

The Commission shall be deemed to be a Youth Commission, as established by M.G.L. Ch. 40 §8E, and a Recreation Commission, as established by M.G.L. Ch. 45 §14, with all powers and duties as established therein.

The Commission shall subsequently perform such other statutory roles as assigned to it by action of the Town Meeting, Board of Selectmen or Town Administrator in keeping with their statutory authority.

6. Repeal of Inconsistent Town Actions & Abolition of Other Agencies:

Any previous conflicting action relating to the assignment of oversight responsibility for the facilities in section (d) above is hereby repealed.

7. Effective Date:

This Bylaw shall be effective upon approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 §32. (Posted July 20, 2004)

Section 8. Assistant Constables (Added 5/7/2009 Art. 36)

The Town Administrator may from time to time appoint for terms not exceeding three years, as many as two assistant constables or such other number of assistant constables as the Board of Selectmen may deem necessary. Assistant constables are appointed for the sole purpose of providing assistance to the Town's elected constables upon their request.

Any United States citizen desiring to be appointed as aforesaid shall make a written application therefor to the appointing authority stating the reasons for desiring such appointment and such other information as may be reasonably required by the appointing authority relative to the applicant's fitness for said office. Such application shall also contain a statement as to the moral character of the applicant signed by at least five reputable citizens of the town where the applicant resides, one of whom shall be an attorney-at-law. The appointing authority shall also investigate the applicant's reputation, character and fitness for said office. The chief of police shall upon request give the appointing authority all possible assistance in making such investigation. The office of assistant constable shall be filled only by appointment of an applicant hereunder who is found by the appointing authority, after investigation as aforesaid, to be a person of good repute and character and qualified to hold said office.

Assistant constables appointed hereunder shall have the authority only to assist, upon request, an elected constable of the Town in the execution of the elected constable's duties. Assistant constables shall be subject to all requirements and provisions of the Massachusetts General Laws regarding constables."

ARTICLE 6
Streets and Highways

Section 1. Excavation of Public Ways

No person, except the Superintendent of Streets, in the lawful performance of his duties, or those acting under his orders, shall make or cause to be made any excavation in a public street or way for any purpose whatever without having first obtained a written permit from the Superintendent of Streets. When an excavation is made in a street for any purpose, the person or persons by whom or for whom such excavation has been made shall cause a guard rail or other such sufficient force to be placed so as to enclose such excavation and the dirt, gravel or other material thrown therefrom; and such fence shall be maintained the whole time that such excavation continues. The Superintendent of Streets may impose any reasonable conditions governing the lighting, guarding, policing, or manner of carrying on the work. The way must be properly repaired in such manner as to cause no damage to any vehicles.

Section 2. Clerk of the Works

The Highway Superintendent shall be authorized to require, at his discretion, the appointment of a qualified Clerk of the Works to oversee such excavation. If the Clerk is a Town employee, the permit holder shall reimburse the Town for the Clerk's services at the prevailing compensation rate for such employee.

Section 3. Obstruction of Streets and Sidewalks *(Amended ATM 5/5/16)*

No person shall place or cause to be placed in any of the public streets, sidewalks, or squares, any dirt, rubbish, wood, timber, water, snow, ice or other material of any kind tending to obstruct the streets or sidewalks without written permission from the Highway Superintendent. Any person in violation of this section may, be subject to enforcement under Article 11, Section 5. Non-Criminal Disposition (MGL Ch. 40, Section 21D).

Section 4. Driveway Cuts and Drainage *(Amended ATM 5/5/16)*

4.1 Any alteration or installation of driveway(s) or driveway(s) curb-cut(s) onto any public or private roadways within the Town shall require written permission from the Highway Superintendent.

4.2 Driveways shall be located with driver safety in mind including but not limited to providing best available site line for the property and other roadway users in accordance with AASHTO, FHWA and MASS DOT design standards. If advanced roadway warning safety signage is required by the Spencer Highway Department, or requested by the applicant or property owner and approved by the Highway Department, it shall be fabricated in accordance with AASHTO, MUTCD and Spencer Highway Department standards and paid for by the applicant or property owner. The installation of required safety signage to be located on private roads or private property shall be the responsibility of the applicant or property owner and approved by the Spencer Highway Department. Installation shall be as directed by the Spencer Highway Department.

4.3 All driveways and curb-cuts require a Driveway/Curb-Cut Permit issued by the Spencer Highway Superintendent or his/her designee, prior to commencement of construction. The Highway Superintendent shall administer, implement and enforce this Bylaw and shall develop regulations relating to the forms, procedures, terms, conditions, fees, surety and as otherwise may be required for enforcement of this Bylaw or as may be required for improving safety on the public or private way.

4.4 Applications for a Driveway/Curb Cut Permit shall include a Driveway Plan prepared in accordance with, and sufficient to show compliance with, this section and any applicable sections of the Zoning Bylaw and Spencer Highway Department Driveway Permit Requirements.

4.4.1 Where a use requires the issuance of a Site Plan Review under the Zoning Bylaw, said plan shall comply with the requirements of the Zoning Bylaw's Sections 7.4.4, 7.4.5(B.)(C.)(H.)(J.).

4.4.2 Where a use doesn't require the issuance of a Site Plan Review under the Zoning Bylaw, then said plan shall comply with the requirements of the Zoning Bylaw's Section 7.4.5(C.) and Section 7.4.6(A.)(F.)

4.4.3 The Highway Superintendent may require a Peer Review (to be selected by the Highway Superintendent) of the plans and drainage calculations, to be paid for by the applicant.

4.5 Applications for a Building Permit, Special Permit, Site Plan Review, Variance or any other town permit involving the construction or alteration of a driveway/curb cut must include a Driveway/Curb Cut Permit tentatively approved by the Highway Superintendent, or his/her designee.

4.6 The number of driveways/curb-cuts shall be limited to one per lot.

4.6.1 For driveways/curb-cuts that do not involve a Special Permit, Site Plan Review or Variance the Highway Superintendent, or his/her designee, may permit additional driveways/curb-cuts where he/she specifically finds that:

a. the applicant can show that there is something unique about the property that would otherwise render flow to and from the property unsafe and unmanageable, and

b. more than one curb cut is necessary for traffic safety purposes, and

c. it is necessary to achieve, and does not conflict with, the Design Standards of this section.

4.6.2 For driveways/curb-cuts that do involve a Special Permit, Site Plan Review or Variance the Planning Board/ZBA may permit additional driveways/curb-cuts in accordance with the provisions of the Zoning Bylaw.

4.7 Design Standards

4.7.1 Driveways shall be designed and constructed in conformance with these regulations and the Spencer Highway Department Driveway Permit Requirements.

4.7.2 Driveways shall be located so as to minimize conflict with traffic on public or private streets.

4.7.3 Driveways shall be constructed in a manner ensuring reasonable and safe access from the street serving the premises to the building site of the structure on the premises, for all vehicles, including, but not limited to, emergency, fire and police vehicles.

4.7.4 Driveways shall be arranged for the free flow of vehicles at all times and the maneuvering spaces and aisles shall be so designed that all vehicles may exit from and enter onto a public street by being driven in a forward direction.

4.7.5 For corner lots, the driveway/curb-cut shall access from the street generating the lesser of the traffic flows.

4.7.6 Except in access strips for rear lots (Zoning Bylaw §5.3.10) and parcels with insufficient frontage (Zoning Bylaw §5.3.11), no driveway shall be located within 10 feet of any side or rear lot line except that:

a. for driveways/curb-cuts that do not involve a Special Permit, Site Plan Review or Variance the Highway Superintendent may permit a lesser setback after a determination that said driveway will provide safe and reasonable access for emergency vehicles and will not be inconsistent with the purposes of this section nor have a detrimental impact on public safety.

b. for driveways/curb-cuts that do involve a Special Permit, Site Plan Review or Variance the Planning Board/ZBA may permit a lesser setback in accordance with the provisions of the Zoning Bylaw.

4.7.7 Except for Common Driveways, all driveways and curbcuts shall be over the front lot line directly from the street, and driveways shall not cross lot lines of adjoining properties.

4.7.8 Stormwater run-off from the driveway shall not be directed towards or discharged directly onto the public or private way and shall be designed in accordance with acceptable engineering practices. All site and driveway designs shall demonstrate that the design includes appropriate stormwater storage, treatment and best management practices (BMPs) during construction and post-construction.

4.7.9 Driveways shall be designed to accommodate all snow removal and snow storage on-site.

4.7.10 Driveway Grades

Use	Maximum Grade	Minimum Grade	Maximum grade at driveway's intersection with street
Single-Family, Two-Family, Three-Family, Agricultural	11%*	1%	First 20' - 1%* Next 30' – 5%*
Commercial, Industrial, Institutional, Civic and Multi-Family Uses	5%*	1%	First 20' - 1%* Next 30' – 5%*
* For driveways/curb-cuts that do not involve a Special Permit, Site Plan Review or Variance the Highway Superintendent may permit a greater grade after a determination that said driveway will provide safe and reasonable access for emergency vehicles and will not be inconsistent with the purposes of this section nor have a detrimental impact on public safety. For driveways/curb-cuts that do involve a Special Permit, Site Plan Review or Variance the Planning Board/ZBA may permit a greater grade in accordance with the provisions of the Zoning Bylaw.			

4.7.11 Driveways shall be surfaced with a durable, all-season nondusting material, drained and suitably maintained to the extent necessary to avoid any nuisance by reason of dust, erosion or water flow onto streets or adjoining property.

4.7.12 Driveways shall intersect the street's edge of pavement at a 90° angle. The Highway Superintendent may permit driveway intersections of lesser angles where it is found that such angle provides adequate site distances and safe entry and egress from the site relative to the intended use of the property and speeds traveled on the road.

4.7.13 A paved apron consisting of hot mix asphalt of at least 15 feet in length shall be constructed at the driveway-street intersection, in conformance with Spencer Highway Department Driveway Permit Requirements, to prevent damage to the edge of the road and ensure that dirt and debris is not tracked into the street. No overlayment will be allowed onto the existing road surface at any time.

4.7.14 A driveway's entrance or exit shall not exceed, between its intersection with the front lot line and its intersection with the edge of road pavement or surface, a width of 15 feet for single- , two- and three-family uses and 24 feet for all other uses.

4.7.15 The width of a driveway for one-lane use shall be not less than 10 feet as measured at its narrowest point. The width of a driveway for two-lane use shall be a minimum of 18 feet as measured at its narrowest point and a maximum of 24 feet. The Highway Superintendent may allow up to a thirty-foot width if such approval will promote

improved safe and efficient traffic circulation.

4.7.16 Driveways greater than 150 feet in length from the edge of road to the nearest exterior door, as measured along the driveway path, shall be designed and maintained to support the imposed loads of Town of Spencer fire apparatus as determined necessary and specified by the Spencer Fire Department and shall be surfaced with a durable, all-season nondusting material, drained, suitably maintained and shall be a minimum of 12 feet in width for a one-lane use driveway and a minimum of 18 feet in width for a two-lane use driveway. The Spencer Fire Department may permit greater distances before this requirement goes into effect in accordance with the provisions of the latest edition in effect of the Massachusetts Comprehensive Fire Safety Code, Chapter 18 Fire Department Access and Water Supply (527 CMR 1.00).

4.7.17 Any and all portions of a driveway intended to serve as Fire Department access shall be designed and constructed in accordance with the latest edition in effect of the Massachusetts Comprehensive Fire Safety Code, Chapter 18 Fire Department Access and Water Supply (527 CMR 1.00).

4.7.18 Prior to a driveway's construction, a temporary anti-mud tracking pad must be installed for a minimum distance of 50' from the driveway's intersection with the street in accordance with standards established by the Spencer Highway Department. Road areas must be kept clean of mud, dirt, stones, etc. at all times.

4.7.19 Prior to construction of the final driveway apron coordination with the Highway Superintendent shall be required to verify all construction requirements including but not limited to conformance with all applicable Town Bylaws and related requirements; and nature and extent of repairs required by the Highway Superintendent to existing roadway resulting from access to/from the property along its entire length of public or private way frontage.

Section 5. Snow Plowing and Removal

5.1.1 For the purpose of removing or plowing snow and removing ice from any public way in the Town of Spencer, the Superintendent of Streets or the Chief of Police or their authorized representative may remove or cause to be removed to some convenient place, including in such term a public garage, any vehicle interfering with such work. The cost of removal and storage charges, if any, shall be paid by the owner of the vehicle to the person or persons so removing or storing such vehicle; provided, however, such charges shall not exceed the prevailing rates. There shall be no parking on any streets from November 1 through April 15 of each year between the hours of 12:01 AM and 6:00 AM except as designated by the Board of Selectmen and the Highway Superintendent.

5.1.2 Property owners and/or occupants to remove snow and ice from sidewalks in the Central Business District described as follows: both sides of Main St. including all parcels located or addressed from 96 Main St. to 176 Main St. and 95 Main St. to 159 Main St. within 24 hours of the end of a storm and to place such snow or ice in the gutter of the street adjacent to the property.

Section 6. Distributing Handbills

No person shall throw or scatter in or about the public streets of Spencer any handbills, notices, flyers or other like instrument without a permit from the Selectmen having been first obtained.

Section 7. Fireworks Explosions

No fireworks, firecrackers or torpedoes shall be set off or exploded on any public street or sidewalk or upon any Town property in close proximity to any person or property.

Section 8. Trash and Littering

1. No person shall deposit on a public way or public place any household, commercial or environmental waste (i.e. leaves, brush, dirt, gravel).

2. No person shall deposit on private property or private way any household or commercial waste either for permanent or temporary storage unless approved by the Board of Health, meets zoning by-laws, Conservation Commission regulations when it is appropriate, and meets all requirements established under M.G.L. Chapter 111, Section 150A.

3. Homeowners and commercial establishments may deposit waste three (3) feet from a public or private way or in a designed area for the purpose of routine weekly waste pickup provided that all waste is placed in a closed container that is suitable for handling by a licensed hauler.

4. Whoever violates the provisions of the by-law shall be fined for each offense within the calendar year in accordance with the following schedule:

   1st offense - $ 50.00
   2nd offense - $100.00
   3rd offense - $150.00
   4th and subsequent offenses - $200.00

   Each week during which the violation continues to occur shall be deemed a separate offense.

Section 9. Temporary Repairs in Private Ways (added 6/18/98 Art.16)
(Rev. 10/7/2010 Art. 2)

1. The town shall be authorized to make temporary repairs in private ways within the Town of Spencer, subject to the following terms and conditions:

2. Such temporary repairs may include the filling of holes and grading and leveling of surfaces, the oiling or tarring of ways and the covering of said oil or tar with sand or gravel, the paving of the private way and the installation of drainage.

3. No such repair shall be made unless the Board of Selectmen votes that such repairs are required by public safety or necessity.

4. This authority to make temporary repairs to private ways may be exercised by the Board of Selectmen only when the necessary funds therefore are available in the Highway Department budget and only when Highway Department personnel and equipment are not then needed for the care and maintenance of the Town's Public ways; or, there shall be an appropriation of funds therefore at Town Meeting or a cash deposit by owners of the private way of funds sufficient to pay for such repairs. If a Town Meeting makes an appropriation for the repair of a particular private way, the Town shall assess betterments to recover the entire cost of the repairs from all the owners of the private way. The apportionment of said betterment shall not exceed twenty equal annual portions. The Town shall follow M.G.L. Chapter 80 as it further relates to the assessment of betterments.

5. Such repairs may be made only if the owners of at least two thirds (2/3) of the lots abutting the private way petition the Board of Selectmen. Ownership shall be determined by the most recent deeds of record.

6. Such repairs may be made only if the private way is open to the public and has been open to the public for at least the previous ten (10) years.

7. This by-law is enacted only for the purpose of authorizing the expenditure of public funds to make temporary repairs to private ways and no duty or obligation is either hereby placed on the Highway Department or hereby assumed by the Town to thereafter maintain and repair said private ways so that they are reasonably safe and convenient for travel by being free from defects or a want of repair.

8. The making of such temporary repairs to private ways, no matter how often or to what extent, shall not constitute an acceptance by the Town of such private ways as public ways. In any legal action brought against the Town for damages or injury to person or property suffered by reason of a defect or want of repair in a private way which has been so repaired, the Town reserves the right to deny in any such legal action, that the said repaired way is a public way.

9. In the event that a person suffers damages to his person or property by reason of the Town's negligence in making of such temporary repairs, the Town shall not be liable for damages caused by such negligence to any greater extent than if such repairs were done on a public way.

Article 7
Wetland Protection
(Amended 10/29/2009 – Art. 10)

Section 1. Purpose

The purpose of this bylaw is to protect the wetlands, related water resources and adjoining land areas in Spencer by prior review and control of activities deemed by the Conservation Commission to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries and wildlife habitat, recreation, aesthetics, agriculture and aquaculture values (collectively, the "wetland values protected by this bylaw").

Section 2. Definitions

Except as provided below or as set forth in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, M.G.L. Ch. 131, Section 40.and its regulations, 310 CMR 10.00. The following definitions shall apply in the interpretation and implementation of this bylaw.

"**Application**" shall mean Request for Determination of Applicability or Notice of Intent.

"**Applicant**" shall mean the person who files a Request for Determination of Applicability or a Notice of Intent.

"**Alter**" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw.

1. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
2. Changing of pre-existing drainage characteristics;
3. Changes in water level or water table;
4. Dumping, discharging, or filling with any material which may degrade water quality;
5. Placing of fill or removal of material which would alter elevation;
6. Driving of piles, erection or repair of buildings or structures of any kind;
7. Placing obstructions or objects in the water;
8. Destruction of plant life including the cutting of trees;
9. Changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water;
10. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater;
11. Application of pesticides or herbicides.

"Order of Conditions" is synonymous with the term "permit" for an approval and "denial" for a disapproval by the Commission.

"**Project**" shall include any contiguous area under development, area where development is proposed, or any area of contiguous lots that are part of a common plan of development.

"**Person**" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality and any other legal entity, its legal representative, agents or assigns.

"Protected Resource Area" shall include any of the jurisdictional areas listed in Section 3.1.1 through 3.1.6 of this bylaw.

Section 3. Jurisdiction

3.1 Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall remove, fill, dredge, build upon, or alter the following resource areas:

3.1.1 In or within one hundred (100) feet of any freshwater wetland, marsh, wet meadow, bog, or swamp;

3.1.2 On or within one hundred (100) feet of the top of any bank;

3.1.3 In or within one hundred (100) feet of any body of water, lake, pond, or stream;

3.1.4 Land under said waters;

3.1.5 In or within one hundred (100) feet of any land subject to flooding or inundation by groundwater or surface water; or

3.1.6 Within two hundred (200) feet of a river as defined by the Massachusetts Rivers Protection Act. M.G.L. Chapter 131, Section 40, and the Massachusetts Code of Regulations at 310 CMR 10.58.

Section 4. Exemptions

4.1.1 The following specific exemptions will be allowed by right provided the Commission is given written notice of proposed activities prior to the commencement of the activity.

4.1.2 Maintenance, repair, or replacement, but not substantially changing or enlarging, an existing lawful structure.

4.1.3 Maintenance of a facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission not less than 14 days prior to commencement of work and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

4.1.4 Work performed for normal maintenance of land in agricultural use or aquacultural use. Upon request from the Commission, verification of land use shall be submitted to the Commission in one of the following forms:

4.1.4.1 A Conservation Plan prepared in consultation with the United States Department of Agriculture Natural Resources Conservation Service;

4.1.4.2 A current Forest Cutting Plan approved by the Massachusetts Department of Conservation and Recreation; or

4.1.4.3 A copy of a current Spencer tax bill showing Massachusetts General Laws Chapter 61, or 61A assessment.

4.1.5 Emergency projects necessary for the protection of the health and safety of the public, provided that:

4.1.5.1.1 Certification by the Commission of an Emergency is requested or such work has already been so certified by the Commission as provided by the Wetlands Protection Act, M.G.L. Ch. 131, Section 40.and its regulations, 310 CMR 10.00;

4.1.5.2 Only work necessary to abate the emergency is done;

4.1.5.3 The Work is performed by, or has been ordered to be performed by, an agency of the Commonwealth or a political subdivision thereof;

4.1.5.4 Notice, oral or written, is given to the Commission by the ordering agency or by the person performing the work prior to commencement of work or within 24 hours after commencement; and

4.1.5.5 A Notice of Intent for the remainder of the work needed for the project is filed with the Commission for review as provided in this bylaw.

4.2 Upon failure of a project to meet these qualifications for exemption the Commission may require an application or, after notice and a public hearing, revoke or modify any pre-existing project approval and order restoration and mitigation measures.

Section 5. Applications

5.1 A written application (Notice of Intent or Request for Determination of Applicability)) shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The Notice of Intent shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with an Order of Conditions issued pursuant to this bylaw.

5.2 The Commission, in an appropriate case, may accept as the Notice of Intent under this bylaw, the Notice of Intent and plans filed under the Wetlands Protection Act, M.G. L., Ch. 131, Section 40.

5.3 Any person desiring to know if proposed activity or an area is subject to this bylaw may file a Request for Determination of Applicability from the Commission. Such a Request for Determination of Applicability shall contain data and plans deemed necessary by the

Commission. In an appropriate case, the Commission may accept a Request for Determination of Applicability filed under the Wetlands Protection Act, M.G. L., Ch. 131, Section 40.

5.4 At the time of filing a Notice of Intent or Request for Determination of Applicability, the applicant shall pay a fee specified by the Spencer Board of Selectmen. This fee is in addition to that required by the Wetlands Protection Act, M.G. L., Ch. 131, Section 40.

5.5 The Commission is authorized to require the applicant to pay the costs and expenses of any expert consultant deemed necessary by the Commission to review the Notice of Intent or Request for Determination of Applicability, including but not limited to professional engineers, registered land surveyors, wildlife biologists, fisheries biologists, hydrologists, botanists, ecologists and aquatic weed control specialists, in order to assess impacts on the wetland values protected by this bylaw. These costs and expenses shall not exceed 20% of the estimated total cost of the project.

5.6 The Commission shall waive the filing fee for a Notice of Intent or Request for Determination of Applicability filed by the Town of Spencer. Costs relating to publication of required notices, consultants or other necessary expenses to comply with this bylaw or the Act shall not be exempt.

5.7 The Commission shall have the option to waive fees for a Request for Determination of Applicability filed by a person having demonstrated no financial connection with the property or project that is the subject of the request.

Section 6. Notice and Hearings

6.1 Notice to abutters: Any person filing a Notice of Intent (application) shall at the same time send notice of the application, by certified mail (return receipt requested), by certificate of mailing, or hand delivery, to all abutters at their mailing addresses as appearing on an Assessor's certified abutters list and shown on the most recent applicable tax list of the Assessors, including owners of land within 300 feet of the property line on the opposite side of an official street and abutters to abutters within 300 feet of the property line of the subject property.

> 6.1.1 The notice to abutters shall include the name of the applicant, the project address and associated Spencer Assessors Map/Parcel numbers, and a copy of the project description summary as written on the Notice of Intent form part A.
>
> 6.1.2 The notice to abutters shall also state where copies of the completed Notice of Intent (including) and plans may be examined.
>
> 6.1.3 An affidavit of the persons providing such notice, with a copy of the notice, and a list of the names and mailing addresses of those persons notified, shall be filed with the Commission at least five (5) business days before the hearing.

6.2 Hearing Schedule The Commission shall schedule a date and time for public hearing on each Notice of Intent and Request for Determination of Applicability once all fees and notices have been received by the Spencer Conservation Commission.

6.3 Notice to applicants and owners Notice of the time and place of the hearing shall be sent to the person making the Request or filing the Notice of Intent. When the person making a Request for Determination of Applicability is other than the owner of the property, a copy of the Request

for Determination of Applicability and notice of the time and place of hearing shall also be sent, by the Commission, to the owner. An applicant other than the owner must provide a demonstration of standing relative to the property subject to the Request for Determination of Applicability or Notice of Intent.

6.4 Public Notice At least five (5) business days prior to the public hearing for a Request for Determination of Applicability or Notice of Intent, the Conservation Commission shall publish notice of the hearing in a newspaper of general circulation in the Town of Spencer. Publication shall be at the expense of the Town of Spencer Office of Development and Inspectional Services and funded by use of part of the application fee. The Town of Spencer, by rule or regulation , may select a specific paper.

6.5 Hearings. The Commission shall start the public hearing within 21 days from receipt of a complete Notice of Intent or Request for Determination of Applicability unless the applicant authorizes an extension in writing.

6.5.1 The Commission, in an appropriate case, may combine its hearing under this bylaw with the hearing held under the Wetlands Protection Act, M.G.L. Ch. 131, Section 40.

6.5.2 The Commission shall have the authority to continue a hearing to a date specified at the hearing, for reasons stated at the hearing, which may include, but are not limited to, receipt of additional information offered by the applicant or others, information and plans deemed necessary by the Commission at its discretion required of the applicant, or receipt of comments and recommendations of boards and officials of the Town of Spencer.

6.5.3 In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as heard to that time..

Section 7. Coordination with Other Boards

7.1 The Conservation Commission shall provide copies of the newspaper notice and of the time and place of the related hearing to Town entities, including the Planning Board, Zoning Board of Appeals, Board of Health, and Highway Department and, at the Commission's discretion, other town entities if affected. The town entities notified by the Commission shall give notice to the applicant and the Commission of any permit required by or pending before that entity.

7.2 Any Town entity, including but not limited to, Building Inspector, Zoning Board of Appeals, Planning Board, Board of Health and its agent, or Highway Department shall notify the Commission of, any permit application received by that entity, or activity of that entity itself, involving earth alteration or disturbance in an area subject to the jurisdiction of this bylaw. Such boards and officials may, where appropriate, make written comments and recommendations to the Commission which the Commission shall take into consideration but which shall not be binding on the Commission. The applicant shall have the right to receive and respond to all such comments and recommendations at the hearing of the Commission prior to final action. If requested by the applicant, the hearing may be continued to a date acceptable to the Commission and the applicant, to allow the applicant to assemble a response.

Section 8. Permits, Determinations of Applicability and Orders of Conditions

8.1 The Commission shall issue a written Determination of Applicability within twenty-one (21) days of receipt of the complete Request for Determination of Applicability. The Commission shall issue its Determination of Applicability or Order of Conditions in writing within twenty-one (21) days of the close of the public hearing unless an extension is authorized in writing by the applicant.

8.2 If the Commission determines, after a public hearing, that the activities described in a Notice of Intent are likely to have a significant or cumulative effect upon the wetland values protected by this bylaw, the Commission, within twenty-one (21) days of the close of the hearing, shall issue an Order of Conditions for the activities proposed.

8.3 The Commission shall impose conditions which the Commission deems necessary or desirable to protect wetland values. All conditions written and plans cited in a Determination of Applicability or Order of Conditions shall be complied with in their entirety and be subject to inspection at any time during the proposed project.

8.4 For projects where discretionary authority of the Commission is necessary under M.G.L. Ch. 131, Section 40 or this bylaw, the Commission may use the applicant's past performance under M.G.L. Ch. 131, Section 40 or this bylaw as guidance.

8.5 The Commission is empowered to deny a permit for:

8.5.1 Failure to meet the requirements of the this bylaw;

8.5.2 Failure to submit necessary information and plans requested by the Commission;

8.5.3 Failure to meet design specifications, performance standards, and other requirements in regulations of the Commission;

8.5.4 Failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this bylaw; or

8.5.5 Failure to demonstrate that there are conditions adequate to protect wetlands values.

8.6 Determinations of Applicability shall expire after 3 years. Determinations of Applicability cannot be extended.

8.7 Orders of Conditions shall expire three (3) years from the date of issue. Notwithstanding the above, the Commission, at its discretion, may issue a permit expiring five (5) years from the date of issue for recurring or continuous maintenance work provided annual notification of the time and location of the work is given to the Commission.

8.8 An Order of Conditions or an Extension of an Order of Conditions may be extended at the discretion of the Commission, for an additional period of up to three (3) years, provided that a written Request for Extension is received by the Commission at least thirty (30) days prior to expiration of the Order of Conditions or current Extension.

8.9 For good cause the Commission may revoke or modify the Order of Conditions issued under this bylaw after notice to the holder of the permit, notice to the public, abutters, and Town boards pursuant to Section 6 and 7, and a public hearing.

8.10 The Commission, in an appropriate case, may combine the Order of Conditions issued under this bylaw with the Order of Conditions issued under the Wetlands Protection Act, M.G. L., Ch. 131, Section 40.

8.11 No work proposed in any application shall be undertaken until the Order of Conditions issued by the Commission with respect to such work, has been recorded in the Registry of Deeds or, if the land affected thereby be registered land in the registry section of the land court for the district wherein the land lies, and until the holder of the Order submits proof of recording, or certifies in writing to the Commission, that the permit has been so recorded.

Section 9. Regulations

9.1 After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations, or a legal declaration of their invalidity by a court of law, shall not act to suspend or invalidate the effect of this bylaw.

Section 10. Security

10.1 As part of an Order of Conditions issued under this bylaw for a larger project requiring Notice of Intent, in addition to any security required by any other municipal or State Board, agency, or official, the Commission may require that the performance and observation of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

> 10.1.1 By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a *Certificate of Compliance* for work performed pursuant to the permit;
>
> 10.1.2 By a Conservation Restriction, easement, or other covenant enforceable in a court of law, executed by the owner of record and duly recorded at the Registry of Deeds tied to the deed and title of the land, to the benefit of this municipality, *whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.*

Section 11. Enforcement

11.1 The Commission, its agent, officers, and employees shall have the authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.

11.2 The Commission shall have the authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, civil or criminal court actions, or Non-Criminal Disposition as allowed by Spencer General Bylaws, Article 11, Section 5 and M.G.L. Chapter 40, Section 21D.

11.3 Upon the request of the Commission, the Board of Selectmen and the Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

11.4 Municipal boards and officers, including any police officer or other office having police powers, shall have authority to assist the Commission in enforcement.

11.5 Prior to the issuance of any fine, the Commission shall notify the violator in writing. Each day, or portion thereof, during which a violation continues, shall constitute a separate offense and each provision of the bylaw, regulations, Determination of Applicability, or Order of Conditions violated shall constitute a separate offense.

Section 12. Burden of Proof

12.1 The applicant for a Notice of Intent shall have the burden of proving by a preponderance of the credible evidence, that the work proposed in the application will not have unacceptable significant or cumulative effects upon wetland values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to issue a denial or to grant a permit with conditions if it is possible to devise conditions which, in the opinion of the Commission, are sufficient to protect those values. If devising effective conditions is deemed impossible by the Commission, the Commission may deny a permit.

Section 13. Appeals

13.1 A decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L., Ch.249, Section 4.

Section 14. Relation to the Wetlands Protection Act

14.1 This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the Wetlands Protection Act, M.G.L., Ch. 131, Section 40 and regulations thereunder, 310 CMR 10.00 et seq.

Section 15. Severability

15.1 The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any Order of Conditions or Determination of Applicability which previously has been issued.

Section 16. Special Conditions

16.1 **Wetland Replication and Restoration.**
Proposed destruction of designated wetlands areas as defined in the Wetland Protection Act, M.G.L., Ch. 131, Section 40 shall be replaced or restored at a ratio of one and a half (1.5) times the original wetland land area. The restoration or replacement area shall be monitored at the applicant's expense by an independent consultant appointed by the Commission for a period specified by the Commission. Any failed portion of the restored area, including but not limited to the vegetation, hydric soils, and animal habitats, must be repaired sufficiently to sustain the function of the wetland area. A report from the monitoring consultant will be required stating the level of restoration at a period of one (1), three (3) and five (5) years following project completion as appropriate. This sub-section does not limit the Commission's ability to extend the period of restoration and monitoring if sufficient restoration has not been achieved within five (5) years.

16.2 **Storm Water Management**.
A Storm Water Management Plan is required for all subdivisions of more than two (2) lots including subdivisions, created by the Approval Not Required process in M.G.L. Ch. 41 Section 8P, which contain or discharge storm water into a protected resource area. The Plan shall include but not be limited to graphic plans, calculations, and design specifications demonstrating no increase in runoff from the proposed subdivision.
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16.3 **Protective Measures**.

16.3.1 Erosion controls. The Commission may require such erosion controls to protect wetland resource areas as it deems necessary and appropriate to the nature and size of a project. The Commission may specify the type, placement, and manner of installation of erosion control measures or may require submission of an erosion control plan. Hay bales, if required, shall be placed in a contiguous line and double staked and silt fence shall be installed with no less than six (6) inches of fabric secured below grade (ground level) and on the down-slope side of (immediately behind) the hay bales. The applicant may suggest alternative measures which may be used if approved by the Commission in the Order of Conditions.

16.3.2 Oil absorbents Floating oil absorbent booms shall be installed at the water line near any proposed activity using hydraulic equipment within 40 feet of a waterline. The booms must be strung in a contiguous line and secured to the bank a minimum of twenty (20) feet on either side of the proposed activity in such a manner as to intercept any released fluid. Oil absorbent pads must be on site whenever hydraulic equipment is anywhere on site.

16.4 **Development of Forest Land.**
No Determination of Applicability or Order of Conditions issued by the Commission shall permit cutting of trees or clearing of forest land in a resource area protected by this bylaw. If within the five (5) years preceding the application, forest cutting has already taken place based on a Department of Conservation and Recreation Forest Cutting Permit. The Commission shall allow no cutting until the full five (5) year waiting period required by 310 CMR 11.05 (1) (d), the regulations of the Massachusetts Forest Cutting Practices Act, M.G.L. c.132, 4.1, has elapsed.

ARTICLE 8
Law Enforcement

Section 1. Operator of Vehicles

No driver of a vehicle shall stop the same with its left side to the curb, sidewalk, or side of the street.

Unless in an emergency or to allow another vehicle or pedestrian to cross its way, no driver of a vehicle shall stop the same in any street except close to the curb nor in such a way as to obstruct any street crossing.

Section 2. Diversion of Traffic

A police officer may divert either vehicles or pedestrians when necessary to avoid congestion or when necessary for public safety or convenience; and no person having charge of a vehicle may refuse or neglect to drive, stop, place or park the same as directed by a police officer.

Section 3. Door-to-door Sales *(Amended 5/7/15 Art. 25)*

No person or persons shall solicit, canvas, or distribute with intent to sell, any item or product door-to-door within the Town of Spencer without a License from the Chief of Police.

The provisions of this bylaw shall not apply to any person engaged in the pursuit of soliciting for charitable, benevolent, fraternal, religious or political activities, nor any person exempt by general law. This bylaw shall also not be construed to prevent a route salesmen having established customers to whom they make periodic deliveries from calling upon such customers.

A solicitor or canvasser is defined as any person who, travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or to take orders for retail sale of goods, wares, merchandise, or services.

Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing the following information:

(a) Name and home address of applicant
(b) Name and address of employer
(c) Applicant's height, weight, eye and hair color
(d) Applicant's date of birth and social security number
(e) Home, work and cellular telephone numbers
(f) Email address
(g) Nature of business and goods to be sold
(h) If operating a motor vehicle: year, make, model, registration number, State of registration, vehicle's owner and address

At the time of filing the application, each applicant shall pay a fee of $25.00 – check or money order made payable to the Town of Spencer. Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation as to morals and integrity. Each licensee is required to possess an individual license.

A Door to Door sales person shall not be disrespectful or abusive in language or action and shall not employ unfair or deceptive practices during the course of their activities. No activities shall be conducted before 9am or after 7pm or at any time on Sundays or Holidays.

No license shall be issued to any person having been convicted of the following: a felony; a misdemeanor punishable by imprisonment for more than two years; a violent crime; a violation of any law regulating the use or possession of weapons or ammunition; a violation of any law regulating the use or possession of a controlled substances.

After an investigation, the Chief of Police shall endorse on such application his approval or disapproval. The Chief of Police is hereby vested with the jurisdiction over issuing and revoking of licenses. If the license is disapproved or revoked, the applicant shall have the right of appeal to the Town Administrator.

Each license issued under the provisions of the bylaw shall continue in force from the date of issue until the thirty-first day of December following, unless revoked sooner.

Whoever violates any provision of this bylaw shall be punishable by a fine not to exceed $200.00.

Section 4. Projectiles Endangering Public Safety

No person shall throw stones or snowballs or any other missiles in any street in a manner to endanger any person or property therein.

Section 5. Posting of Bills or Notices

No person shall post up or affix in any manner any bill, placard or notice either written or printed upon the fences, utility poles, guideboards, walls, bridges, trees, stones, rocks, or any other object or upon any part of any building in the Town without the previous consent of the occupant or occupants or those having charge thereof or, if there be no occupants, without the previous consent of the owners thereof.

Section 6. Public Disorderly Behavior

No person shall behave himself in a rude or disorderly or boisterous manner, or use any indecent or insulting language in any street or other public place in Town or near any dwelling house or other building therein or remain upon any sidewalk, public passageway or ways to any church or public hall or public office or upon any steps, portico or other projection from any such house or other building to the disturbance or obstruction of any person lawfully entitled to pass, inhabit or resort thereto; and no person shall sit upon any wall, fence, banks or door step facing upon any street or public place, not being the occupant or owner thereof, without the consent of the owner or occupant of the premises.

Section 7. Fireworks

No person, firm or corporation shall sell, use or authorize the sale or use of fireworks or firecrackers within the Town; and provided, however, that duly authorized wholesalers may sell fireworks and firecrackers outside the Town; and provided further that persons having a permit

issued under authority of Chapter 148, Section 10A of the General Laws may purchase fireworks and display them in accordance with the provisions of said Chapter 148 of the General Laws and in compliance with the rules and regulations of the Department of Public Safety.

Section 8. Skateboards and Roller Skates

No person shall operate a skateboard or use roller skates on any sidewalk, street or public place where such activities are prohibited by posted public notice.

Section 9. Removal of Traffic Devices

No person shall willfully break, deface, or move away any official sign post, signaling, or traffic device warning barrier, lantern or other light placed or located in any street or public place for the information or direction of traffic or the protection of the public.

Section 10. Obstruction of Free Passage

No person shall stop or leave any vehicle or trailer crosswise in any street or in such a manner as to unreasonably hinder or obstruct travel over such street or sidewalk, nor at the side of any other vehicle in such a manner as to obstruct the travel of other vehicles, nor, except in case of emergency, stop or leave any such vehicles at a point nearer than 15 feet of the corner of any intersection of ways, nor within ten (10) feet of a fire hydrant.

No person shall stop a vehicle on a cross walk or in front of the entrance or exit of any driveway or alley used by other vehicles.

Section 11. Direction Signals

Every driver and every person having charge of a vehicle in any street or way in the Town of Spencer shall observe the directions indicated by any sign, signal or suitable device placed by the Board of Selectmen in or near any such street or way for the purpose of directing or controlling vehicular traffic therein.

Section 12. Parking Fees (Replaced 5/9/2002 Art. 14)

The Town accepts the provisions of Chapter 90, Section 20A-1/2 and any amendments thereto of the Massachusetts General Laws, which authorizes the Board of Selectmen to establish a schedule of Parking Penalties.

Section 13. Consumption of Liquor

In order to preserve peace and good order, no person shall publicly consume or carry an open container of any intoxicating liquor on any public property, in any cemetery, park, or schoolyard or on a public way in the Town of Spencer, unless a special permit has been granted by the Board of Selectmen for the serving and consumption of alcohol at an event which is in the public interest. Anyone violating this by-law shall be subject to arrest, without a warrant, by a Sheriff, Deputy Sheriff, Town Police Officer or State Police Officer.

Section 14. Public Decency

A. No person shall bathe or swim in any water within the Town in a state of nudity in places exposed to public view or in the immediate sight of any occupant or occupants of any dwelling house, shop or factory.

B. The following acts or conduct in or on premises licensed under M.G.L. Chapter 138, Sections 1 and 12, are deemed contrary to the public need and to the common good, and are therefore prohibited within said premises:

(a) To employ or permit any person in or on the licensed premises while such person is unclothed or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks or genitals;

(b) To employ or permit any hostess or other person to mingle with patrons while such hostess or other person is unclothed or in such attire as described in Paragraph (a) above;

(c) To encourage or permit any person in or on the licensed premises to touch, caress or fondle the breasts or buttocks or genitals of any other person;

(d) To employ or permit any person to wear or use any device of covering exposed to view which simulates the breasts, buttocks, pubic hair or genitals or any portions thereof;

(e) To employ or permit any person in or on the licensed premises to perform an act or acts, or to simulate an act or acts, of:

(1) sexual intercourse, masturbation, sodomy, flagellation or any such acts prohibited by law;

(2) touching, caressing, or fondling of the breasts, buttocks or genitals of another;

(f) To employ or permit any person in or on the licensed premises to show motion picture films, television-type cassettes, still pictures, or other photographic reproductions depicting any of the acts, or simulation of any of the acts, prohibited in paragraphs (a) - (e) inclusive, as above stated;

(g) To employ, use the services of, or permit upon said premises licensed under M.G.L. Chapter 138 Sections 1 and 12 any employee, entertainer or other person who by his or her attire or conduct violates any general law, special act or by-law of the Town of Spencer.

Section 15. Handicapped Parking (Amended 5/19/2003 Art.19)

(a) Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for business, shopping malls, theatres, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has the right of access as invitees or licensees, shall be required to reserve parking spaces in said off-street parking areas

for any vehicle owned and operated by a handicapped person whose vehicle bears the distinguishing parking identification plate authorized by Section 2 of Chapter 90 of Massachusetts General Laws according to the following formula:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
5-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of total
1001 and over	20 plus 1 for each 100 over 1000

One in every eight accessible spaces, but not less than one, shall be van accessible.

(b) Parking spaces designated as reserved under the provisions of paragraph (a) shall be marked by high contrast painted lines or other high contrast delineation and identified by the use of above-grade signs indicating that they are reserved. A sign shall be located at the head of each space. The sign shall show the international symbol of *accessibility*. Van accessible spaces shall include the words "Van-Accessible". Such signs shall be permanently located at a height of not less than five feet (5'=1524 mm), not more than eight feet (8'=2438 mm) to the top of the sign. Spaces shall be as near as possible to an accessible building entrance or walkway (when such accessible building entrance walkway is required by other statue or regulation) on an accessible route at no more than 100 feet from an entrance; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be at least eight feet (8'=2438 mm) wide, plus the *access aisle*. Access aisles adjacent to accessible spaces shall be five feet (5'=1524 mm) wide minimum except when adjacent to *van accessible spaces* the access aisle shall be a minimum of eight feet (8'=2438 mm) wide. Two accessible parking spaces may share a common access aisle. Exception: Van accessible spaces do not have to be separately provided if all required accessible parking spaces are 11 feet wide (11'=3353 mm) with a five-foot (5'=1524 mm) access aisle.

(c) The leaving of unauthorized vehicles within parking spaces reserved for use by handicapped persons as authorized by paragraphs (a) and (b) or in such a manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way shall be prohibited.

PENALTY: Whoever violates any provision of this By-Law shall be punished by a fine of two hundred dollars ($200.00) for each offense. Every day a violation continues after its abatement has been ordered by the Town shall constitute a separate offense.

Section 16. Fire Lane Violations

Fire Lanes – leaving of vehicles in certain private ways.

(a) Fire Regulations: It shall be unlawful to obstruct or block a private way with a vehicle or any other means so as to prevent access by fire apparatus or equipment to any multiple family building, stores, shopping centers, schools and places of public assembly.

(b) Fire Lanes: It shall be unlawful to obstruct or park any vehicle in any fire lane, such fire lanes to be designated by the Head of the Fire Department and posted as such. Said fire lanes shall be a distance of 12 feet from the curbing of a sidewalk in a shopping center, apartment complexes and similar locations. Where no sidewalk with curbing exists, the distance and location shall be established by the Head of the Fire Department.

(c) The owner of record of any building affected by these sections shall provide and install signs and road markings as provided in Paragraph (b) of this section. Said signs shall be no less than 12" x 18" and shall read:

"FIRE LANE – NO PARKING – TOW ZONE"

(d) Any object or vehicle obstructing or blocking any fire lane or private way may be removed or towed by the Town under direction of a Police Officer at the expense of the owner and without liability of the Town of Spencer.

(e) Any person violating any of the foregoing sections may, for each offense, be punished by a fine of $50.00. Each day that such violation continues shall constitute a separate offense. (Amended 12/5/2013 Art. 11)

Section 17. Unregistered Motor Vehicles

No more than two (2) unregistered motor vehicles, other than farm vehicles, shall be kept on any premises in the Town unless they are stored within a building or they are located in an area licensed under Chapter 140, Section 59 of the General Laws as amended. Each day in which more than two (2) vehicles are kept on any premises in the Town in violation of this by-law shall be a separate offense. The penalty for violation of this by-law shall be a fine of not less than $20.00 dollars per offense.

Section 18. Operation of Automobiles on Frozen Surfaces

No person shall operate or permit the operation of any automobile or truck upon the frozen surface of any lake, pond, river, stream or waterway within the Town of Spencer. However, this by-law shall not prohibit or restrict official, emergency or authorized vehicles from operating upon the frozen surface of any lake, pond, river, stream or waterway within the Town of Spencer.

Section 19. Engine Size Limitation for Watercraft Operating on Browning Pond
(Added STM 11/27/2018 Art. 24)

No person shall operate a boat or other watercraft using an internal combustion engine greater than twenty (20) horsepower on Browning Pond. Each separate offense of this section shall be punishable of a fine of:

a.	First offense:	$50
b.	Second offense:	$100
c.	Third and each subsequent offense:	$150

ARTICLE 9
Animal Control

Section 1. Definition of Terms

As used in this by-law, context otherwise indicates:

A. "Dog" shall mean all animals of canine species both male and female.

B. "Owner" shall mean any person or persons, firm, corporation or association owning, keeping or harboring a dog as herein defined.

C. "Public Nuisance" – any dog shall be considered a public nuisance when such dog is found to be not on premises of the owner of such dog or on the premises of another person except if such dog is under restraint and control of a person competent to restrain and control said dog so that it will not be a threat to public safety. The mere muzzling of such shall not satisfy the requirements of this law.

D. "Excessive Barking" – any dog shall be considered a public nuisance when the owner or person responsible allows said dog to annoy another person's reasonable right to peace and quiet by continuous barking in excess of twenty (20) minutes. (Added 5/9/2002 Art.16)

E. "Disposal of Animal Waste" – any dog shall be considered a public nuisance when the owner or person responsible fails to remove and dispose of any feces made, at the time made, by said dog on any property not owned or occupied by the owner or person responsible. (Added 5/9/2002 Art.16)

F. "Rabies Vaccination" – any dog or cat shall be considered a public nuisance when the owner or person responsible fails to cause such dog or cat, six months of age or older, to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine, according to manufacturer's directions, and shall cause such dog or cat to be revaccinated at intervals recommended by the manufacturer, the vaccination tag shall be secured by the owner or person responsible to the collar or harness to be worn by the dog or cat; provided, however, that the owner of a cat may choose not to affix a tag to his/her cat, but shall have the tag available for inspection. (Added 5/19/2003 Art. 20)

Section 2. Dog as a Public Nuisance

No owner of keeper of any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance within the Town of Spencer at any time.

Section 3. Impounding

It shall be the duty of the Animal Control Officer to investigate complaints concerning any dogs which are alleged to be in violation of this by-law and to apprehend any dog found by him/her to be a public nuisance and impound such dog in a suitable place or to order the owner thereof to restrain said dog.

Section 4. Notice to Owner and Redemption

The owner of any dog so impounded may reclaim such dog upon the reimbursement to the Town of expenses for maintaining said dog while impounded according to the following schedule:

1.	First Offense	$20.00
2.	Second Offense	$25.00
3.	Third Offense	$30.00
4.	Fourth Offense	$35.00
5.	Subsequent Offenses	$50.00

(Fines increased 5/4/2000 Art. 36)

Section 5. Penalty

Any owner found in violation of any part of the provisions of the by-law shall be subject to a non-criminal violation according to the following schedule:

1.	First Offense	$20.00
2.	Second Offense	$25.00
3.	Third Offense	$30.00
4.	Fourth Offense	$35.00
5.	Subsequent Offenses	$50.00

(Fines increased 5/4/2000 Art.36)
Said fines to be paid to the Town within 21 days of receipt of a non-criminal violation by the Animal Control Officer.

Section 6. Disposition of Funds

Such funds collected pursuant to this by-law shall be accounted for and paid over to the Town at such a time and in such a manner as may be designated by the Town Treasurer to be deposited in the Town Treasury to become part of the Town's General Fund. (Amended 5/4/2000 Art. 36)

Section 7. Late License Fee (Amended 12/5/2013 Art. 10)

An additional fee of $15.00 shall be charged to each dog owner who fails to license his/her dog on or before June 30th of any year. If June 30th falls on a day that the Town Hall is not open (weekend, holiday, etc.) the late charge will be assessed if payment has not been made by the first following business day. Any owner who fails to license his/her dog upon demand of the Town Clerk thereafter shall be subject to an additional fee of $25.00. (Amended 5/4/2000 Art. 36)

Section 8. Board Rate *(Amended 11/7/19 Art. 17)*

The daily boarding rate for impoundment of dogs shall be $15.00 per day. (Amended 5/4/2000 Art. 36)

Section 9. Appeal (Added 5/4/2000 Art. 36)

The owner of a dog may appeal a violation to the Town Administrator or designee by filing a written request for review within ten (10) days after receipt of a non-criminal violation notice. The Town Administrator or designee shall conduct a hearing and render a written decision within 30 days. The decision shall be final.

Section 10. Kennel License (Added 5/10/2001 Art.13)

Any person who owns or keeps more than three dogs, three months old or over, on a single premise, irrespective of the purpose for which they are maintained, without a valid kennel license issued by the Town Clerk, shall be subject to a $100 fine.

Section 11. Other Animals (Added 11/17/2005 Art. 13)

Whoever having the charge or custody of any member of the animal kingdom, including, but not limited to, any mammal, bird, reptile or amphibian, other than a dog, willfully suffers or permits them to enter or remain on or pass over the land of another, shall be subject to a fine in accordance with Section 5. The Animal Control Officer may apprehend any animal found in violation and impound such animal in a suitable place. Impoundment Fees in Section 4 and Boarding Rates in Section 8 shall apply in regards to the enforcement of this section.

ARTICLE 9A
Vicious Dogs

Section 1. Purpose

It is the purpose of this by-law to regulate the keeping of "Vicious Dogs" to protect the health and safety of the public.

Section 2. Definitions

"Animal Control Officer" (ACO) means a person designated by the Town Administrator, including, but not limited to, representatives of any private contractor or its successor, to handle and manage issues dealing with animals including, but not limited to, dogs.

"Dog" means any member of the canine species.

"Owner" or "Keeper" means any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.

"Vicious Dog" means any dog, regardless of breed, breeding, type or appearance, which, when unprovoked, in an aggressive manner, inflicts injury on or kills a human being. The term shall also mean that any dog, regardless of breed, breeding, type or appearance, which, when unprovoked, has killed, seriously bitten, inflicted serious injury upon, or attacked a domestic pet or animal off the property of the owner or keeper of the dog.

"Potentially Dangerous Dog" means any dog, regardless of breed, breeding, type or appearance, which, when unprovoked, engages in any behavior that requires defensive action by a human or domestic animal to prevent bodily injury when the person and the dog are off the property of the owner or keeper, or while on the owner or keeper's property and the animal is not under control of the owner/keeper or is not properly restrained. If two or more situations within 12 months as described above are documented by the ACO, and the owner or keeper is notified, the dog may be deemed "Vicious" and subject to all the provisions and requirements contained in this by-law. Any decision by the ACO is subject to appeal as per Section 7 of this by-law.

(a) No dog may be declared potentially dangerous or vicious if any injury or damage is sustained by a person/s who, at the time the injury or damage was sustained, was committing a willful trespass upon the premises occupied by the owner/keeper of the dog, or was teasing, tormenting, abusing, assaulting, startling, or was committing or attempting to commit a crime, nor if the dog was defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

(b) No dog may be declared potentially dangerous or vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under control of, its owner or keeper, and the injury was to a species or type of domestic animal appropriate to the work of the dog.

"Running At Large" for a vicious dog, means that a vicious dog is not:

(a) On a leash (see "Physical Restraint");
(b) In a suitable locking transport cage;
(c) Secured in a vehicle; or
(d) In a suitable outdoor containment area as per Section 4.

"Physical Restraint" means on a leash suitable for the dog (minimum 300 lb. tensile strength) and controlled by a person physically capable of controlling such dog. The person must be at least eighteen (18) years of age.

"Muzzle" means a device placed around the mouth of a dog so as not to injure the dog but prevent it from biting any person or animal.

"Schutzhund" means the sport of training a dog for tracking, finding objects, obedience to commands, and protection by attacking when defending the handler or on command. Schutzhund trained dogs are never aggressive except under specific situations they are trained to face, and only under the absolute control of the handler.

Section 3. Licensing of Vicious Dogs

3.1 The ACO shall notify the Town Clerk of all Vicious Dogs as defined by this by-law. Upon such notice, the Town Clerk shall notify the Owner or Keeper of the dog that unless contested in accordance with the appeal procedure of Section 7 of this by-law, the dog will be considered "Vicious" and any previously issued license will be considered immediately revoked. Owners or Keepers must re-license the dog as "Vicious" or notify the Town Clerk as to the disposition of the dog within fourteen (14) days of this notice. A unique licensing number shall be assigned to a Vicious Dog by the Town Clerk. That number shall be noted on the Town licensing files.

3.2 Any person acquiring a dog, either for temporary or permanent housing, that has been ordered to be removed from any other state, city, or town, for any reason, must register said dog with the Town Clerk in Spencer within seventy-two (72) hours of arrival of the dog, with a copy of any removal orders. Said dog shall be licensed as Vicious or Potentially Dangerous and will be subject to all provisions of this by-law.

3.3 No Vicious Dog shall be licensed by the Town of Spencer for any licensing period after the acceptance of this by-law unless the Owner or Keeper of such Vicious Dog shall meet the following requirements:

3.3.1 The Owner or Keeper shall present to the Town Clerk proof that the Owner or Keeper has procured liability insurance in the amount of at least one hundred thousand dollars ($100,000.00) covering any damage or injury which may be caused by such Vicious Dog during the twelve-month period for which the license is sought. The policy shall contain a provision requiring the Town to be notified at least thirty days prior to cancellation, termination, or expiration of such liability coverage.

3.3.2 The Owner or Keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve-month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the Vicious Dog prior to expiration of such license.

3.3.3 The Owner or Keeper shall display a sign not to exceed one square foot on his or her premises in accordance with a common standard to be established by the ACO, warning that there is a Vicious Dog on the premises. The sign shall be visible and capable of being read from the public highway or roadway.

3.3.4 The Owner or Keeper shall, on or prior to the effective date of such license for which application is being made, have a fenced enclosure for the Vicious Dog on the property where the Vicious Dog will be kept or maintained (See Section 4).

3.3.5 Annually, at the time of renewal of the Vicious Dog license and prior to issuance of the initial license, all Owners or Keepers shall provide the licensing authority with two recent (within thirty [30] days) photographs of said Vicious Dog. These photos will consist of one close-up head shot and one side-standing viewpoint. Any distinguishing markings will be noted on the back of said photograph.

3.3.6 The fee for licensing, or re-licensing, of a Vicious Dog under the provisions of this by-law shall be double that of the license fee otherwise established in the Town for the licensing of non-vicious dogs. Such license fee shall be without apportionment for any partial portion of the year or credit for any fee previously paid.

Section 4. Control of Vicious Dogs

All Vicious Dogs shall be confined in an enclosure (chain link or equivalent fencing secured on all four sides and top if deemed necessary by the ACO, with a locking gate, and a minimum size of 12’ x 12’). It shall be unlawful for any Owner or Keeper to maintain a Vicious Dog upon any premise which does not have a locked enclosure or for any Owner or Keeper to allow any Vicious Dog to be outside the dwelling of the Owner or Keeper or outside of the enclosure unless it is necessary for the Owner or Keeper to obtain veterinary care for the Vicious Dog, or to sell or give away the Vicious Dog or to comply with the commands or directions of the ACO, or to comply with the provisions of this by-law. In such event, the Vicious Dog shall be securely muzzled and “Physically Restrained” with a restraint having a minimum tensile strength of three hundred (300) pounds and a length not exceeding four (4) feet, and shall be under the direct control and supervision of the Owner or Keeper of the Vicious Dog.

Section 5. Requirement to Notify

The Owner or Keeper of a Vicious Dog shall, within forty-eight (48) hours of an event hereinafter specified, notify the ACO if said dog is unconfined, has attacked another dog or animal, has attacked a human, has died, or has been given away; the Owner or Keeper shall also provide the ACO with the name, address, and telephone number of the new owner of the Vicious Dog. The Owner or Keeper shall provide written documentation from a licensed veterinarian in the event of the death or destruction of the animal unless the death or destruction has been confirmed visually by the ACO.

Section 6. Attack Dogs

No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait, or use any dog for the purpose of causing or encouraging said dog to attack human beings, animals, or other dogs, unless being trained for law enforcement or involved in the sport of "Schutzhund."

Section 7. Enforcement and Appeal

7.1 The ACO shall enforce the provisions of this by-law using the following enforcement actions: assessing fines; issuing written warnings; performing inspections; issuing orders of restraint, confinement, or muzzling; making recommendations to the Board of Selectmen concerning Vicious Dogs, orders of permanent restraint, seizure, or destruction.

7.2 Any person aggrieved by a decision of the ACO may appeal therefrom by filing a written appeal request with the Town Clerk within ten (10) days of issuance of the ACO's decision. The Town Clerk shall forthwith notify the Board of Selectmen of the appeal, and the Board of Selectmen shall hold a hearing thereon within thirty (30) days of the filing of the appeal. It shall render its decision within thirty (30) days of the conclusion of the hearing.

7.3 The Board of Selectmen, acting either on an appeal by a person aggrieved by a decision of the ACO or on a recommendation from the ACO, may, after a hearing at which the ACO and the person aggrieved, as well as any complainants, are provided an opportunity to be heard, may affirm, reverse, or modify the ACO's decision, and may order a license revocation, the permanent restraint, confinement or muzzling of the dog, seizure by the ACO, or its destruction in accordance with guidelines of the Massachusetts Society for the Prevention of Cruelty to Animals.

7.4 It is the intent that all costs, including medical care, associated with the impoundment of a dog for any reason in accordance with this by-law and MGL be the sole responsibility of the Owner or Keeper of the dog. Impoundment costs for vicious dogs shall be double the impoundment costs established in the Town for the impoundment of non-vicious dogs.

Section 8. Penalties - Non-Criminal Disposition
(Article 11 Section 5) M.G.L. Chapter 40, Section 21D

The violation of any provision of this by-law may, as an alternative to criminal proceedings, be subject to a non-criminal disposition fine to be:

1st violation	$50.00
2nd violation	$100.00
3rd and subsequent violations	$150.00

Each day in which the violation exists shall constitute a separate offense.This amendment shall take effect on January 1, 2007, subject to approval of the Massachusetts Attorney General and its posting in accordance with M.G.L. Ch. 40 § 32.

ARTICLE 10
Planning and Zoning

Section 1. Construction and Demolition of Structures

No building shall be constructed, removed or materially altered without first obtaining a permit from the Building Inspector. Plans and specifications may be required by him before such a permit is issued.

Section 2. Fees

Fees for inspections and/or permits relating to building shall be determined from time to time by the Board of Selectmen; said fee schedules will be on file in the office of the Town Clerk and in the office of the Building Inspector.

Section 3. Removal of Soil, Loam, Sand, Gravel

No person shall remove any soil, loam, sand or gravel from any land in the Town, not in public use, unless such removal is authorized by a special permit from the Zoning Board of Appeals and also a permit issued by the Board of Selectmen except for the continued operation of an existing sand and gravel pit. All permits are to be issued by the Board of Selectmen on a yearly basis subject to a public hearing. Permit fees shall be set by the Board of Selectmen. Any owner of land may, without permit, excavate and remove such materials from his land in the course of constructing a foundation of structure upon his land.

Section 4. Exclusion

The by-laws shall not apply to any building or other structures which are owned or occupied by the United States or to the Commonwealth of Massachusetts nor to any bridge within Town.

Section 5. Street Signs

All requests for street signs must be approved by the Planning Board.

Section 6. Plot Plans

All plot plans for division, redivision or subdivision of land must be submitted to the Planning Board with a copy to the Board of Assessors showing the parcel of land to be divided, redivided or subdivided. The new lot or lots must be outlined in a thick, dark line.

Section 7. Marijuana Not Medically Prescribed

Consistent with MGL Ch. 94G, Section 3(a)(2), all types of marijuana establishments as defined in MGL Ch. 94G, Section 1(j), to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of license marijuana-related businesses, shall be prohibited within the Town of Spencer.

Section 8. Registration of Vacant Buildings Required *(Added STM 11/27/2018 Art. 23)*

A. Registration

(1) Within thirty (30) days of a building becoming vacant, each owner of such building shall register said building with the Town of Spencer's Building Inspector. All registrations must state the owner's name, mailing address, telephone number and e-mail address if the individual has an e-mail address. The mailing address shall not be a post office box.

(2) If none of the owner(s) has an address within the Commonwealth of Massachusetts, the registration shall also include the name, address, phone number, and e-mail address of a person who resides in the Commonwealth of Massachusetts, who shall be designated as the responsible local agent for purposes of notification in the event of an emergency affecting the public health, safety and welfare, and for service of any and all notices issued pursuant to this chapter.

(3) The failure to timely register a vacant building shall be violation of this chapter.

B. Registration Fees

(1) There shall be a one hundred dollar ($100.00) fee associated with registering vacant buildings. Buildings which are in the process of foreclosure shall not be required to register until a foreclosure deed has been recorded at the Worcester County Registry of Deeds and the building is vacant at the time of recording, at which time the 30-day registration requirement will commence. Single family residential properties actively listed for sale shall be exempt from the registration fee provided there is compliance with the Maintenance Requirements of clause C of this bylaw.

(2) On January first of each year subsequent to initial registration, provided the initial registration has remained in effect at least for one (1) calendar year, there shall be a one hundred dollar ($100.00) fee to maintain such registration with the Town.

(3) Failure to timely register or to maintain registration of any vacant building or shall be a violation of this chapter, and a one hundred dollar ($100.00) fee shall be imposed as a municipal charges lien on the property in accordance with Massachusetts General Laws, Chapter 40, Section 58.

C. Maintenance Requirements

(1) Properties subject to this section shall comply with 780 CMR 116.2, standards for making buildings safe or secure, and shall be maintained in accordance with all applicable sanitary codes, building codes, and local regulations;

(2) The local owner or local agent must inspect and maintain the property on a monthly basis for the duration of the vacancy.

(3) The property must contain a posting with the name and twenty-four hour contact phone number of the local owner or agent responsible for the maintenance. This sign must be posted at the front of the property and must be legible and clearly visible from the public way and / or street.

D. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice of occupancy to the Building Inspector.

E. This section shall be enforced by the Building Inspector, the Health Inspector, the Police Chief, the Fire Chief and / or their designees.

F. Penalties.

(1) Each separate offense of this section shall be punishable of a fine of:

a. First offense: $100

b. Second offense: $200

c. Third and each subsequent offense: $300

(2) Each violation of any provision of this section shall be considered a separate offense, and each day that any violation continues shall constitute a separate offense.

G. Upon failure to comply with any order issued under this section, the Town may, in addition to other penalties and actions, bring civil or legal action against the owner to require compliance with the order, including but not limited to seeking a court-appointed receiver for the property in violation.

The imposition of any fine shall not be construed to prevent the enforcement of other laws upon the premises or prevent the initiation of other enforcement measures or penalties. Failure to pay any fine arising from the enforcement of this section shall constitute a debt in favor of the Town. The Town may place a lien on the property for such debt and / or initiate a civil action against the owner in a court of competent jurisdiction to recover the debt.

ARTICLE 11
Miscellaneous

Section 1. Junk Collectors and Dealers (Amended ATM 10/27/2011 Art. 2)

The Selectmen may license suitable persons as junk collectors to collect, by purchase or otherwise, junk, old metals and second-hand articles by going from place to place in Town; and no person shall engage in the business without such license.

The Selectmen may license suitable persons to be dealers in and keepers of shops for the purchase, sale and barter of junk, old metal and second-hand articles; and no such person shall be a dealer in or keeper of such shop without a license.

Whoever being in the business of purchasing second-hand articles shall keep a book in which shall be written a description, including all distinguishing marks and numbers, of all articles purchased, the purchase price, the date and time, and the name and residence of the person selling such articles, regardless of the type or value of the article or amount paid.

The license holder shall require of any person who sells second-hand articles, regardless of the type or value, to show to the buyer prior to the sale identification which includes a photograph of the seller. The license holder shall not purchase a second-hand article from anyone less than 18 years of age. The License holder shall make a photocopy of the identification of the seller and maintain it with their sales records.

Articles purchased by licensed Junk Collectors and Dealers must be retained on the premises occupied for their business for at least twenty-one days from the date of purchase before being altered and or offered for sale.

The Chief of Police or designee may at any time enter upon the premise used by the license holder to examine all articles purchased, kept or stored in said premise and all books and inventories relating thereto.

Whoever carries on such a business without being properly licensed, or whoever violates any other provision of this bylaw, shall be punished by a fine of $300.00. Each day, or portion thereof, during which a violation continues, shall constitute a separate offense.

As an alternative to criminal proceedings, violations of this bylaw shall also be subject to the non-criminal disposition provisions of Article 11, Section 5, of the Town's General Bylaws. Police officers are authorized to enforce this bylaw.

Section 2. Sewer Connections

A permit must be obtained from Superintendent of Sewers before any person may connect to the Town sewer line, and the fee for such a permit shall be set by the Sewer Commissioners. All connections to the Town sewers shall be inspected by the Superintendent of Sewers before connections are covered over; all fees collected by the Superintendent of Sewers shall be remitted to the Town Treasurer.

Section 3. Numbering of Buildings *(Replaced STM 10/7/2010 Art. 3)*

The Board of Assessors shall be required to regulate within the Town of Spencer the numbering of buildings and other property on or near the line of public or private ways, and such designations shall constitute the proper and legal address of said building or other property in the Town of Spencer.

All houses, businesses and structures shall properly display at the front thereof, in a position easily observed from the street on a year round basis, the proper number of the building assigned by the Town. Assignment of numbers shall be obtained from the Building Inspector at the time the building permits are approved. Owners of houses, businesses and structures without numbers at the time of passage of this bylaw shall obtain the proper number from the Board of Assessors as soon as possible.

In cases where a house, business or structure is not visible from the street, or the distance is too great for a reasonable size number to be easily seen from the street, a sign, no larger than twelve (12) inches by twelve (l2) inches with numbers not less than three (3) inches in height and one and one quarter (1.25) inches in width, shall be posted at the street end of the driveway, and on the same side of the street, in such a way as to be seen by emergency vehicles approaching from either direction. This sign may be substituted by numbers not less than three (3) inches in height and one and a quarter (1.25) inches in width on both sides of the mailbox only if the mailbox is located at the end of the appropriate driveway and on the same side of the road.

In cases where more than one house, business or structure shares a common or shared driveway, or the buildings are not visible from the street, or the distance is too great for a reasonable size number to be easily seen from the street, a sign shall be posted at the street end of the driveway on the same side of the street in such a way as to easily be seen by emergency vehicles approaching from either direction. This sign shall designate the range of numbers for which the driveway serves. This sign may not exceed the twelve (12) inch by twelve (l2) inch dimensions in order to accommodate the full set of numbers in a way easily seen from emergency vehicles.

The numbers shall not be less than three (3) inches in height and one and a quarter (1.25) inch in width. The owner(s) will be notified by the Building Inspector by letter if this is necessary. Each driveway branching off of the common or shared driveway, and all subsequent branching, must have additional sign(s), dimensioned and visible as outlined above, at that immediate junction indicating which number(s) are served by that driveway.

In all cases each figure shall be at least three (3) inches in height and shall be clearly visible. Said numbers shall contrast with their background. Numbers placed on signs must be placed at a height of not less than three (3) feet from ground level and not exceed five (5) feet from ground level. Signs must be kept clear of brush and other obstacles that would limit visibility of said sign by emergency vehicles.

In cases where a house, business or structure remains unnumbered, or where the numbering may have been lost or destroyed as to be illegible, the owner shall replace the numbering within twenty (20) days after official notification by either the Police Chief or Fire Chief.

Any violation beyond the twenty (20) day limit will result in a fine of $l0.00 per day. Violations may, as an alternative to criminal proceedings, be subject to the non-criminal disposition procedures of Article 11, Section 5 of the Town's General Bylaws. Each day in which the violation exists shall constitute a separate offense. No permit or Certificate of Compliance of any

kind (i.e. occupancy, building, electrical, Smoke Detector Certificate of Compliance) shall be issued by the Town to the owners if their building, dwelling, business or structure is in violation, and does not have a number visible in compliance with this bylaw.

Section 4. Taxicabs

This by-law permits licensing and regulation by the Board of Selectmen of taxicabs within the Town, said authority to include the power to grant, suspend and revoke licenses to operate taxicabs upon any public way within the Town unless duly licensed under this by-law.

No owner or other person having the control of a taxicab shall allow person to operate the same, and no person shall operate the same unless licensed thereto as provided under this by-law.

Application for the licensing for taxicabs required by this by-law shall be made to the Board of Selectmen on a form furnished by the Board and shall set forth any and all information as the Board may require.

All licenses to operate taxicabs shall be signed by at least a majority of the Board of Selectmen, shall be numbered in order as granted, shall be recorded in the office of the Town Clerk and, the Board of Selectmen shall have the authority to suspend any licenses granted under the provisions of this by-law. Prior to suspension, the Board of Selectmen shall conduct a hearing as to the existence of grounds for suspension if said suspension is for a reason other than the lapsing of the license after the one (1) year licensing period has expired.

The Board of Selectmen shall have the authority to set and regulate rates for services for any and all taxicabs operating within the Town of Spencer. Said rate shall not exceed the prevailing rate for such services in surrounding communities unless good cause is shown for such a higher rate.

Section 5. Non-Criminal Disposition (M.G.L. Chapter 40, Section 21D)
(Added 5/28/98 Art.38)

A. Non-Criminal Disposition: Whoever violates any of these by-Laws, the violation of which is subject to a specific penalty may be subject to a non-criminal proceeding as provided in General Laws, Chapter 40, Section 21D. The non-criminal method of disposition may also be used for violation of any rule or regulation of any municipal office, board or department which provides for a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following By-Laws and Sections of By-Laws are to be included within the scope of their subsection, that the specific penalties are listed herein below shall apply in such cases and that in addition to Police Officers who shall in all cases be considered enforcing persons for the purposes of the provision, the municipal personnel listed for each Section of the General By-Law's as are set forth herein below, if any, shall also be the enforcing persons for such sections.

Each day of which any such violation exists shall constitute a separate violation of any such Section.

B. Enforcing Person: Whenever a bylaw of the Town of Spencer is subject to noncriminal proceedings as provided in Chapter 40, Section 21D of the Massachusetts General Laws, the enforcing person shall be the Town Administrator or the Town Administrator's designee, in addition to the enforcing person, if any, specified in such bylaw. The designation of an

enforcing person by the Town Administrator may be made or changed at any time, with each designation or change being effective upon the Town Administrator's filing with the Town Clerk of a written notice thereof. (Added 5/10/2001 Art. 15)

C. Late: Failure to make payment of a non-criminal Town By-Law violation within 21 days of the date of delivery of the violation notice or within 21 days of delivery of a notice they have been found responsible after an appeal hearing, shall result in a late charge of $15.00.
(Added 5/9/2002 Art. 18)

D. Demand: Failure to make payment of a non-criminal Town By-Law violation within 21 days of the date of delivery of a Late notice under this section shall result in a demand charge of $25.00. (Added 5/9/2002 Art.18)

Section 6 – Stretch Energy Code *(Added STM 11/27/2018 Art. 25)*

1. Definitions

The terms below shall have the following meanings for the purposes of this Article XXIII.

International Energy Conservation Code (IECC) - The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is updated on a three-year cycle. The baseline energy conservation requirements of the MA State Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA of the 8th edition Massachusetts Building Code, the Stretch Energy Code is an appendix to the Massachusetts Building Code, based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this Code.

2. Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the Building Code for both new construction and existing buildings.

3. Applicability

The Stretch Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

4. Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any future editions, amendments or modifications, is herein incorporated by reference into these General Bylaws, Article XXIII.

5. Enforcement

The Stretch Code is enforceable by the Building Inspector, and is effective as of July 1, 2019.

BOARD OF HEALTH

1. BOARD OF HEALTH (Amended 5/9/2002 Art. 17)

   A violation of the provisions of the Rules and Regulations of the Board of Health.

Fine allowed:	$300.00
Fine Schedule:	As established in Rules & Regulations
Enforcing Agent:	Board of Health or Designee

2. BOARD OF SELECTMEN (Added 5/19/2003 Art. 21)

   A violation of the provisions of the Rules & Regulations of the Board of Selectmen.

Fine allowed:	$300.00
Fine Schedule:	As established in Rules & Regulations
Enforcing Agent:	Board of Selectmen or Designee

CONSERVATION COMMISSION

1. VIOLATION OF WETLAND & RIVER PROTECTION ACT (Amended 5/1/2008 Art. 10)

Fine Schedule:	1st Offense $ 50.00 per day up to 15 days 2nd Offense $100.00 per day up to 15 days 3rd Offense $300.00 per day up to 15 days
Enforcing Agent:	Conservation Commission or Designee

2. FAILURE TO COMPLY WITH ORDER OF CONDITIONS

Fine Schedule: (Amended 5/1/08 Art.10)	1st Offense $ 50.00 per day up to 15 days 2nd Offense $100.00 per day up to 15 days 3rd Offense $300.00 per day up to 15 days
Enforcing Agent:	Conservation Commission or Designee

3. FAILURE TO COMPLY WITH ENFORCEMENT ORDER

Fine Schedule: (Amended 5/1/08 Art. 10)	1st Offense $ 50.00 per day up to 15 days 2nd Offense $100.00 per day up to 15 days 3rd Offense $300.00 per day up to 15 days
Enforcing Agent:	Conservation Commission or Designee

4. TRASH AND LITTERING (Amended 5/19/2003 Art. 22)

Fine Allowed:	$150.00
Fine Schedule:	$ 50.00 1st Offense $100.00 2nd Offense $150.00 3rd Offense
Enforcing Agent:	Conservation Commission or Designee

FIRE DEPARTMENT (Added Art 11. 5/5/05)

Town of Spencer Fire Prevention Regulations (527CMR 1.00-50.00 and MGL 148)

Fine Allowed:	Warning 1st Offense
	$50.00 2nd Offense
	$100.00 3rd Offense
	$200.00 4th Offense
	$300.00 5th /any subsequent Offense
Enforcing Agent:	Fire Chief or Designee

HIGHWAY DEPARTMENT *(Amended 12/5/2013 Art. 12)*

1. EXCAVATION OF PUBLIC WAYS WITHOUT A PERMIT

Fine Allowed:	$200.00
Fine Schedule:	$ 50.00 1st Offense
	$100.00 2nd Offense
	$150.00 3rd Offense
	$200.00 4th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

2. OBSTRUCTION OF STREETS AND SIDEWALKS

Fine Allowed:	$100.00
Fine Schedule:	$ 50.00 1st Offense
	$ 50.00 2nd Offense
	$100.00 3rd and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

3. DRIVEWAY CUTS AND DRAINAGE WITHOUT A PERMIT

Fine Allowed:	$200.00
Fine Schedule:	$ 50.00 1st Offense
	$100.00 2nd Offense
	$150.00 3rd Offense
	$200.00 4th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

4. FAILURE TO PERFORM OR COMPLETE WORK PER PERMIT REQUIREMENTS

Fine Allowed:	$200.00
Fine Schedule:	$ 50.00 1st Offense
	$100.00 2nd Offense
	$150.00 3rd Offense
	$200.00 4th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

5. SNOW PLOWING AND REMOVAL

Fine Allowed:	$50.00
Fine Schedule:	$25.00 1st Offense
	$25.00 2nd Offense
	$50.00 3rd and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

6. DISTRIBUTING HANDBILLS

Fine Allowed:	$50.00
Fine Schedule:	$25.00 1st Offense
	$25.00 2nd Offense
	$50.00 3rd and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

7. TRASH AND LITTERING

Fine Allowed:	$200.00
Fine Schedule:	$ 50.00 1st Offense
	$100.00 2nd Offense
	$150.00 3rd Offense
	$200.00 4th and Subsequent Offenses
Enforcing Agent:	Highway Department or Designee

Unless otherwise specified in the By-Laws each day during which a violation continues to occur shall be deemed a separate offense."

POLICE DEPARTMENT

1. DOOR TO DOOR SALES

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

2. RUDE, INDECENT SPEECH OR BEHAVIOR

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

3. LOITERING

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

4. FIREWORKS

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

5. SKATEBOARDS AND ROLLER SKATES

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

6. CONSUMPTION OF LIQUOR

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

7. UNREGISTERED MOTOR VEHICLES

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

8. OPERATION OF AUTOMOBILES ON FROZEN SURFACES

Fine Allowed:	$50.00
Enforcing Agent:	Police Department or Designee

ARTICLE 12
Alarm System By-Law
(Added Art. 37 5/16/2000)

Section 1. Title and Purpose

(A) This by-law shall be known as the Alarm System By-Law and shall regulate alarms which cause a message to be transmitted to Police or Fire Departments.

(B) The purpose of this by-law is to encourage alarm users to maintain the operational reliability of their alarm systems, to reduce or eliminate false alarm dispatch requests, to establish a system of regulations and fees with respect to alarm systems, and to provide for penalties for violations of this by-law.

Section 2. Permit Requirements

(A) No alarm user shall operate, or cause to be operated, an alarm system without a valid permit issued in accordance with this by-law. A separate permit is required for each alarm site. There will be a one-time fee of $25.00 for a permit of an alarm site.

Section 3. Alarm System Operation and Maintenance

(A) The alarm user shall maintain the alarm site and alarm system in a manner that will minimize or eliminate false alarm dispatches.

(B) The alarm user shall make every reasonable effort to respond or cause a representative to respond within one-half hour, when notified, to deactivate a malfunctioning alarm system or to provide access to the alarm site.

(C) The alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than 15 minutes after being activated.

(D) The alarm business performing monitoring services shall attempt to verify every alarm signal, except a duress or hold-up alarm activation, before requesting a police response to an alarm signal.

(E) An alarm system does not include an alarm installed in a vehicle or an alarm designed to alert only the inhabitants of a premises that does not have a sound device which can be heard on the exterior of the alarm site.

(F) Automatic Dialers to the Police or Fire Departments are prohibited.

(G) The Police or Fire Departments shall not serve as alarm monitors.

Section 4. Fines

(A) Effective July 1, 2001 an alarm user shall be subject to warnings and fines depending on the number of false alarm dispatches emitted from an alarm system within the fiscal year, based on the following schedule.

Number of False Alarm Dispatches	Action Taken	Fine
1	Warning	None
2	Warning	None
3	3rd Offense	$ 50.00
4	4th Offense	$ 75.00
5	5th & Subsequent	$100.00

(B) Any persons operating an alarm system without a permit issued in accordance with this by-law shall be subject to an additional fine of $100.00 for each false alarm dispatch.

(C) An alarm dispatch request caused by a criminal offense, a fire or other emergency, or an alarm resulting solely from power outages or extreme weather conditions shall not be counted as a false alarm dispatch.

(D) All fines and fees resulting from the enforcement of the provisions of this by-law shall be collected in the form of a personal check, money order or registered check, made payable to the Town of Spencer and forwarded to the Police Department.

(E) State and municipal entities shall be exempt from the provisions of this by-law.

(F) All fines shall be paid within 21 days of receipt of a non-criminal violation notice.

Section 5. General Provisions

(A) Except as otherwise required by law, the information furnished and secured pursuant to this by-law shall be confidential in character and shall not be subject to public inspection.

(B) The alarm user may appeal the decision of the alarm administrator to the Town Administrator or designee by filing a written request for a review within ten (10) days after receipt of a non-criminal violation notice. The Town Administrator or designee shall conduct a hearing and render a written decision within 30 days. The decision of the administrator or designee shall be final.

(C) The Chief of Police shall serve as the alarm administrator to: administer, control and review alarm applications, permits, and alarm dispatch requests, develop a procedure to accept verified cancellation of alarm dispatch requests, promulgate such regulations as may be necessary or required to implement this by-law.

ARTICLE 13
Fire Department
(Added Art. 11 5/5/2005)

Section 1. Fire Prevention Regulations

(A) In order to protect and enhance public safety by reducing the risk of fire hazard, the provisions of the Code of Massachusetts Fire Prevention Regulations 527 C.M.R. 1.00 thru 50.00 and MGL 148 Fire Prevention as from time to time amended are hereby incorporated in and made part of this by law and any violation of any provision thereof shall constitute a violation of this section.

Section 2. Enforcement

(A) Enforcement of this by-law will be by the Fire Chief or designee.

Section 3. Violations and Penalties

(A) Whoever violates any provisions of Article 13 Section 1 shall be punished by a schedule of fines under Article 11 Section 5.

(B) Whoever violates any provisions of Article 13 Section 1 will be subject to Article 11 Section 5, Non-Criminal Disposition By-Law. This section does not preclude enforcing any sections of the Fire Prevention Regulations under any other statute or preclude criminal action being taken against the violator.

(C) All fines and fees resulting from the enforcement of this provision of this bylaw shall be collected in the form of a personal check, money order or registered check, made payable to the Town of Spencer and forwarded to the Fire Department.

(D) State and municipal entities shall be exempt from the provisions of this by-law.

(E) All fines shall be paid within 21 days of receipt of a non-criminal violation notice.

Article 14
Stormwater Management Bylaw
(Added 5/7/2009, Art. 5, Amended 5/7/2015 Art. 28)

Section 1. Purpose

A. The purpose of this Bylaw is to protect the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of land conversion activities. Increased and contaminated stormwater runoff associated with these activities may impair the water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater. The objectives of the Bylaw are to:

1. Establish an authority and controls for land conversion activities to protect and preserve water resources;

2. Regulate land conversion activities to minimize changes to the natural hydrologic characteristics of the land;

3. Require that the quality and quantity of stormwater runoff from land conversion activities is maintained;

4. Prevent erosion and sedimentation from land conversion activities;

5. Establish procedures for review, inspection, maintenance, and enforcement of this Bylaw;

6. Comply with Federal and State laws relating to stormwater.

7. Prevent and eliminate non-stormwater discharges to the Town's municipal separate storm sewer system (MS4).

8. Prohibit illicit connections and unauthorized discharges to the MS4, and require the removal of all such illicit connections.

Section 2. Definitions

The following definitions shall apply in the interpretation and implementation of this Bylaw. Additional definitions may be adopted by separate regulation.

CLEARING: Any activity that removes or disturbs the vegetative surface cover.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE OF LAND: Any action, including clearing, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

ILLICIT CONNECTION – A surface or subsurface drain, conduit, or conveyance that allows an illicit discharge to enter the MS4, including without limitation sewage , septage, process wastewater, or wash water, and any connection from indoor drains, sinks, or toilets,

regardless of whether said connection was permissible under applicable law, regulation, or custom at the time of construction.

ILLICIT DISCHARGE – Direct or indirect discharge to the MS4 that is not composed entirely of stormwater, except as exempted herein.

IMPACT: Effect of a change in the quality or quantity of water at a particular location, system, or resource area.

LAND CONVERSION ACTIVITY: Any new development, redevelopment, clearing, or disturbance of land.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Spencer.

NEW DEVELOPMENT: Any construction or land disturbance of a parcel of land that is currently in a natural vegetated state and does not contain alteration by man-made activities.

PERSON: Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, and any other legal entity, its legal representatives, agents, or assigns.

REDEVELOPMENT: Any construction, alteration, or improvement that disturbs the ground surface (either natural or man-made materials) or increases the impervious area on previously developed sites.

RESOURCE AREA: Any area protected under, including without limitation. the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Town of Spencer Wetlands Protection Bylaw.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENTATION: A process of depositing material that has been suspended and transported in water.

SITE: The parcel of land being developed, or a designated planning area in which the land conversion act is located.

STORMWATER AUTHORITY: The Town of Spencer Planning Board. The Stormwater Authority is responsible for coordinating the review, approval, permit, and processes as defined in this Bylaw. Other Boards and/or departments may act for the Stormwater Authority as defined in the Stormwater Regulations adopted by the Planning Board.

STORMWATER MANAGEMENT: The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

STORMWATER MANAGEMENT PERMIT: A permit issued by the Stormwater Authority, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the adverse affects of uncontrolled and untreated stormwater runoff.

Section 3. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, and pursuant to the regulations of the Federal Clean Water Act, and as authorized by the residents of the Town of Spencer at Town Meeting, dated May 7, 2009.

Section 4. Applicability

A. No person shall discharge anything other than runoff into the Town's stormwater collection system or roads.

B. This Bylaw applies to any land conversion activity that disturbs greater than 1 acre in area.

C. This Bylaw applies to any land conversion activity that is less than 1 acre in area if it meets 2 of the following 3 conditions: (1) located within 100 feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component discharging to any lake, pond, river, stream, or wetland; (2) will occur on or result in a slope of 15% or greater; or (3) disturbs greater than 10,000 square feet in area.

Section 5. Exemptions

A. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations 310 CMR 10.04.

B. Any emergency activity that is immediately necessary for the protection of life, property, or the environment, as determined by the Stormwater Authority; including emergency repairs to any stormwater management facility, or condition that poses a threat to public health or safety, or as deemed necessary by the Stormwater Authority.

C. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

D. Non-stormwater discharges such as:

1. Flushing of lines that contain water.

2. Landscape and lawn irrigation.

3. Diverted flows from streams or wetlands.

4. Rising ground waters.

5. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)].

6. Uncontaminated pumped ground water.

7. Discharge from potable water sources except noncontact cooling water.

8. Foundation perimeter and footing drains.

9. Air conditioning condensation.

10. Uncontaminated water from crawl space pumps.

11. Individual resident car washing.

12. De-chlorinated swimming pool discharges.

13. Street wash water.

14. Residential building wash waters, without detergents.

15. Discharges or flows from fire fighting activities

Section 6. Administration

A. Stormwater Authority. The Spencer Planning Board is designated as the Stormwater Authority. The Stormwater Authority shall administer, implement and enforce this Bylaw. The Stormwater Authority may designate Town Boards, including the Conservation Commission and the Board of Health, as its authorized agent.

B. Stormwater Management Regulations. For the administration of the Bylaw, the Stormwater Authority may adopt and amend regulations relating to the procedures, terms, conditions, definitions, fees, surety, and enforcement.

C. Waivers. The Stormwater Authority may waive strict compliance with this Bylaw if such action is allowed by Federal, State and local statutes, bylaws, and/or regulations; is in the public interest; and is consistent with the purposes of this Bylaw.

D. Actions by the Stormwater Authority. The Stormwater Authority may take any of the following actions as a result of an application for a Stormwater Management Permit: Approval, Approval with Conditions, or Disapproval.

E. Appeals. Appeals made under this Bylaw shall be reviewable in a court of competent jurisdiction in an action filed within sixty (60) days thereof, in accordance with M.G.L. Ch 249 § 4.

Section 7. Enforcement

The Planning Board or its authorized agent shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any Stormwater Regulations promulgated as permitted under Section 6 of this Bylaw.

Section 8. Severability

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

ARTICLE 15
Water Conservation and Restriction Bylaw
Amended 5/3/12 Art. 21

Section 1. Authority

This By-law is adopted by the Town of Spencer under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and pursuant to its powers under M.G.L. c.40, §§21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This by-law also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection under G.L. c. 21G, §15-17. This by-law is also intended to implement other water conservation requirements of M.G.L. c. 21G, the "Massachusetts Water Management Act" and its regulations promulgated at 310 CMR 36.00.

Section 2. Purpose

The purpose of this by-law is to protect, preserve and maintain the public health, safety, welfare and the environment whenever there is in force a "State of Water Supply Conservation" or a "State of Water Supply Emergency" by ensuring an adequate supply of water for drinking and fire protection and to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands. This purpose will be accomplished by providing for the imposition and enforcement of any duly implemented restrictions, requirements, provisions or conditions on water use imposed by the Town of Spencer in accordance with this by-law and/or by the Department of Environmental Protection under its state law authorities.

Section 3. Applicability

All Town of Spencer residents that are customers of the public water supply system shall be subject to this by-law. This by-law shall be in effect year round.

Section 4. Definitions

Agriculture shall mean farming in all its branches as defined at M.G.L. c. 128, § 1A.[1]

Automatic sprinkler system shall mean any system for watering vegetation other than a hand-held hose or a bucket.

Department and/or "the Department" shall mean the Massachusetts Department of Environmental Protection (MassDEP).

[1] This statutory definition includes cultivation of the soil, dairying and the production, cultivation, growing and harvesting of agricultural, aqua cultural, floricultural or horticultural commodities as well as forest harvesting, raising livestock inclusive of bees and fur-bearing animals and forestry, lumbering, preparation for market, delivery to storage or market or to carriers to market incidental to an agricultural operation.

Nonessential outdoor water use shall mean those uses that are not required:

a) for health or safety reasons;

b) by regulation;

c) for the production of food and fiber;

d) for the maintenance of livestock; or

e) to meet the core functions of a business (for example, irrigation by golf courses as necessary to maintain tees and greens, and limited fairway watering, or irrigation by plant nurseries or agricultural operations as necessary to maintain stock or establish new plantings, wash equipment to prevent damage and/or maintain performance, pest management and plant cooling).

Nonessential outdoor water uses that are subject to mandatory restrictions include:

a) irrigation of lawns via automatic sprinkler systems;

b) washing of vehicles except in a commercial car wash; and

c) washing of exterior building surfaces, parking lots, driveways or sidewalks, except as necessary to apply paint, preservatives, stucco, pavement or cement.

Exceptions to nonessential outdoor water uses are:

a) irrigation of public parks and recreation fields outside the hours of 9 AM to 5 PM and;

b) washing of vehicles as necessary for operator safety or to prevent damage and/or maintain performance of agricultural or construction vehicles or equipment;

c) irrigation of lawns, gardens, flowers and ornamental plants by means of a hand-held hose;

d) irrigation with harvested and stored stormwater runoff; and

e) irrigation to establish new, replanted or resodded lawn or plantings during the months of May and September.

The following outdoor water uses are subject to review and approval by the Town of Spencer, through its Board of Water Commissioners or their designee:

a) irrigation of newly planted lawns (seeded or sodded) in the current calendar year for homes or businesses newly constructed in the previous twelve months; and

b) filling of privately owned outdoor pools.

Person shall mean any individual, corporation, trust, partnership, association, agency or authority, or other entity and any officer, employee, group or agent of such persons.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town of Spencer pursuant to Section 5 of this by-law.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c.21G, §15-17.

Water Customers shall mean all persons using the public water supply irrespective of that person's responsibility for billing purposes for use of the water.

Water Users shall mean all persons using a public water supply system.

Section 5. Declaration of a State of Water Supply Conservation

The Town of Spencer, through its Board of Water Commissioners or their designee authorized to act as such, may declare a State of Water Supply Conservation upon a determination that conservation measures are appropriate to ensure an adequate supply of water for drinking and fire protection, to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands and to ensure compliance with the Water Management Act.

The Utilities and Facilities Superintendent may declare a State of Water Conservation if:

a) The demand for water has exceeded the actual pumping capacity of the system for a period longer than four (4) days; or

b) A loss or failure has occurred removing one (1) or more of the Town's wells, treatment plants or holding tanks from operation; or

c) The DEP requires conservation conditions related to the Town's registered or permitted water withdrawals under the Massachusetts Water Management Act.

Upon notification to the public that a declaration of a State of Water Supply Conservation has been declared, no person shall violate any provision, restriction, requirement or condition of the declaration. The Water Commissioners may designate the Water Department Superintendent, Town Administrator or Utilities and Facilities Superintendent to declare a State of Water Supply Conservation at any time that conditions warrant.

Public notice of a State of Water Conservation shall be given under Section 8 of this by-law before it may be enforced.

Section 6. Declaration of a State of Water Supply Emergency

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department for the purpose of bringing about an end to the State of Water Supply Emergency.

Section 7. Restricted Water Uses

A declaration of a State of Water Supply Conservation and/or a State of Water Supply Emergency shall include one or more of the following restrictions, conditions, or requirements limiting nonessential outdoor water use by water customers and water users as necessary to control the volume of water pumped each day, except as provided as acceptable in Section 4. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 8.

a) Nonessential outdoor water use days: Nonessential outdoor water use is permitted only on the days per week specified in the State of Water Supply Emergency or State of Water Supply Conservation and public notice thereof. During a State of Water Supply Emergency or State of Water Supply Conservation, nonessential outdoor water use is restricted to two days or fewer per week.
b) Nonessential outdoor water use hours: nonessential outdoor water use is permitted only during the hourly periods specified in the declaration of a State of Water Supply Emergency or State of Water Supply Conservation and public notice thereof. At a minimum, nonessential outdoor water use is prohibited during the hours from 9AM to 5PM.
c) Nonessential outdoor water use method restriction: nonessential outdoor water use is restricted to a watering can, bucket or hand-held hose controlled by a nozzle.

d) Nonessential outdoor water use ban: Nonessential outdoor water use is prohibited at all times.

e) Automatic sprinkler system ban: The use of automatic sprinkler systems is prohibited.

Section 8. Public Notification of a State of Water Supply Conservation or State of Water Supply Emergency; Notification of DEP

a) Public Notification of a State of Water Supply Conservation – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by the Town of Spencer as part of a State of Water Supply Conservation shall be made as soon as possible, but no later than 48 hours following the declaration of a State Water Supply Conservation by publication in a newspaper of general circulation within the Town and by signage on one or more major roadways or intersections. The Town of Spencer may also notify the public using other means determined to be appropriate (cable TV, reverse 911, CTY Connect, email, etc.). Notification may also include email, Web sites, public service announcements on local media or other such means reasonably calculated to reach and inform all Water Users.

b) Public Notification of a State of Water Supply Emergency – Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by a State of Water Supply Emergency declared by the Massachusetts Department of Environmental Protection (hereafter referred to as "the Department" or "MassDEP") shall be made by publication in a newspaper of general circulation with the Town and by signage on one or more major roadways or intersections. The Town of Spencer may also notify the public using other means determined to be appropriate (cable TV, reverse 911, CTY Connect, email, etc.). This notice shall be provided as soon as possible, but no later than 48 hours after the public water system receives notice of the Department's declaration of a State of Water Supply Emergency. Notification may also include email, Web sites, public service announcements on local media or other such means reasonably calculated to reach and inform all Water Users of the State of Water Supply Emergency.

c) Any restriction imposed under Section 5 or Section 6 or in the MassDEP's State of Water Supply Emergency or Order shall not be effective until notification to the public is provided. Submittal of MassDEP's form "Notification of Water Use Restriction" shall be provided to the MassDEP within 14 days of the effective date of the restrictions, per MassDEP regulations (310 CMR 22.15(8)).

Section 9. Termination of a State of Water Supply Conservation; Notice
A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners or by decision of their designee upon a determination by either or both of them that the conditions requiring the State of Water Supply Conservation no longer exist. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner as is required in Section 8a) for notice of its imposition.

Section 10. Termination of a State of Water Supply Emergency; Notice

Upon notification to the Town of Spencer Water Commissioners or their designee that the declaration of a State of Water Supply Emergency has been terminated by the Department of Environmental Protection, the public will be notified of the termination in the same manner as is required in Section 8b) for notice of its imposition.

Section 11. Penalties

The Town of Spencer through its Water Commissioners or their designee including the water superintendent, building inspector and/or local police may enforce this by-law. Any person violating this by-law shall be liable to the Town in the amounts listed below:

a) First violation: Warning

b) Second violation: $100.00 dollar fine

c) Third violation: $250.00 dollar fine

d) Fourth and subsequent violations: $300.00 dollar fine

Each day of violation shall constitute a separate offense. Fines shall be recovered by complaint before the District Court, or by non-criminal disposition in accordance with section 21D of chapter 40 of the general laws. For purposes of non-criminal disposition, the enforcing person shall be any police officer of the town or the water superintendent or the superintendent's designee. If a State of Water Supply Emergency has been declared the Water Commissioners may, in accordance with G.L. c. 40, s. 41A, shut off the water at the meter or the curb stop.

Section 12. Severability

The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.

Section 13. Controls on In-Ground Automatic Sprinkler Systems

Subsection 13.1 Registration and Installation

a) All new and existing in-ground Automatic Sprinkler systems shall be registered with the Town's Board of Water Commissioners in such form and manner as they shall determine. A fee may be charged for this registration. Registration fees shall be set by the Board of Water Commissioners. The Board may require inspection of the automatic sprinkler system.

b) All in-ground automatic sprinkler systems shall be equipped with a timing device that can be set to make the system conform to the Town of Spencer's nonessential outdoor water

use restrictions. During a State of Water Supply Emergency or State of Water Supply Conservation the timing device must be set to conform to the daily and hourly nonessential outdoor water use restrictions.

c) All in-ground automatic sprinkler systems shall be plumbed so that a shutoff valve is located outside the building and situated so that it may be shut off if found to be in violation of this bylaw. For the purposes of this section only, Police Officers of the Town and/or Agents of the Board of Water Commissioners may enter upon any property to enforce this section.

Subsection 13.2 Soil Moisture-Sensor Devices

a) All in-ground automatic sprinkler systems installed in the Town of Spencer after the date of effect of this bylaw shall be equipped with a soil moisture-sensor device, approved by the Board of Water Commissioners, to prevent the system from starting automatically when not needed. Proof of this installation shall be provided to the Board of Water Commissioners at the time of registration.

b) Any service or repair to an existing in-ground automatic sprinkler system shall include the installation of an approved moisture-sensor device, if the same is not already installed and in good working condition. Proof of this installation shall be provided to the Board of Water Commissioners at the time of installation.

c) The Board of Water Commissioners shall maintain a list, available to the public, of approved soil moisture-sensor devices.

Subsection 13.3 Backflow Prevention

a) All in-ground automatic sprinkler systems connected to the municipal water system in the Town of Spencer shall be protected from backflow events by the installation of a backflow prevention device approved by the Board of Water Commissioners. Each backflow prevention device shall be registered with the Board of Water Commissioners. Testing of all backflow prevention devices connected to the municipal water system may also be required by the Board of Water Commissioners as they determine necessary.

b) The Board of Water Commissioners shall maintain a list, available to the Public, of approved backflow prevention devices. Refer to Table 22-1 in 310 CMR 22.22 for the recommended backflow protection for irrigation systems.

c) Each backflow prevention device shall be installed in accordance with 310 CMR 22.22 and the manufacturer's instructions. Each device shall be tested upon its installation and annually thereafter. A Massachusetts Certified Backflow Device Tester shall perform all testing. Copies of results of all testing shall be filed with the Board of Water Commissioners or Water Department.

d) A fee may be charged for the above described registration and backflow testing. Registration and testing fees shall be set by the Board of Water Commissioners.

Section 14. Water Conservation Public Outreach Information, Tips and Useful Links

Water conservation is an important way to protect our drinking water by ensuring that we don't

diminish our resource. As much as 97% of the world's water is saltwater, leaving 3% freshwater, two-thirds of which is stored as icecaps or glaciers. This leaves us 1% of the world's water for drinking. Needless to say, water conservation will help us sustain our precious 1%.

Town of Spencer water conservation public outreach information, tips, and useful links to other water conservation web sites will be published and updated on the following web page:

http://www.spencerma.gov/Pages/SpencerMA_Water/index

or www.spencerma.gov *Home* page and look under the *Water Department* page

Lawn watering water conservation tips:

1 ***Lawn watering:*** Water your lawn only when it needs it. Step on your grass. If the grass springs back, when you lift your foot, it doesn't need water. Saves 750-1,500 gallons per month. Turn off the water while brushing your teeth. Saves three gallons each day. Set lawn mower blades one notch higher. Longer grass means less evaporation. Saves 500 to 1,500 gallons each month. Put a layer of mulch around trees and plants. Saves 750 to 1500 gallons per month.

2 ***Automatic lawn sprinklers*** are very popular, and many people have installed underground automatic sprinkler systems. While this can be positive, it can also create serious problems if not installed properly. Any landscaping company will tell you that the best time to water your lawn is in the early morning or during the evening. Watering your lawn during the day wastes water due to the evaporation that occurs. Some experts say that as much as 50% of the water will evaporate before it soaks into the ground on a hot sunny day.

ARTICLE 16
Sex Offender Residency Bylaw
(Added 11/1/12 – Article 12; Amended 5/2/13 – Article 22)

Section 1. Definition of Terms

(a) "PARK" means public land designated for active or passive recreational or athletic use by the Town of Spencer, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Spencer. Such land includes but is not limited to Powder Mill Park, O'Gara Park, Luther Hill Park, Ralph Warren Park, Vietnam Memorial Park, Isaac Prouty Park, Bemis Memorial Park, Four Chimneys Recreation Area, the Spencer Fairgrounds, and Howe State Park (Spencer State Forest).

(b) "SCHOOL" means any public or private educational facility that provides services to children in grades kindergarten – 12, or any one or more of such grades. Such facilities shall include but is not limited to Maple Street School, Lake Street School, Knox Trail Middle School, Wire Village Elementary School, and David Prouty High School.

(c) "DAY CARE CENTER" means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

(d) "ELDERLY HOUSING FACILITY" means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members fifty-five years of age or older. Such building or buildings shall include but is not limited to Howe Village and Depot Village (Spencer Housing Authority), Asterwood Place, and Senior Living at Prouty (MHPI).

(e) "SEX OFFENDER" means a person who resides, works or attends an institution of higher learning in the Commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under M.G.L. c. 123A, §14, as in force at the time of adjudication, or a person released from civil commitment pursuant to Section 9 of said Chapter 123A, whichever last occurs, on or after August 1, 1981.

(f) "PERMANENT RESIDENCE" means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.

(g) "ESTABLISHING A RESIDENCE" means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, or the establishment of such a dwelling, place, or abode by means of purchasing real property or entering into a lease or rental or occupancy agreement for real property.

(h) "PRIVATELY OWNED PARK/TRUST" means any park or trust land that is designated for passive or active recreation use. Such land includes but shall not be limited to 4H Soccer Fields, Abbey Soccer Fields, Buck Hill Conservation Center, Burncoat Pond and Wildlife Sanctuary, and Sibley Warner Farm.

(i) "CAMP" means any facility or operation falling within the definition of "Recreational Camp for Children" set forth in 105 CMR 430.020, including but not limited to any such which promotes or advertises itself as a camp, and without limiting the foregoing, shall also include real estate used by or for, or advertised as a camp, all within the Town of Spencer, regardless of whether operated seasonally or year-round. Such facilities or operations includes but is not limited to Camp Marshall, the Mary House, Montachusett Girl Scouts, and Mohegan Council (Treasure Valley and Browning Pond Boat Ramp). (Amended May 2, 2013 Art. 22).

(j) "PUBLIC LIBRARY" means the Richard Sugden Public Library, including any branch thereof.

(k) "PLACE OF WORSHIP" means a structure used for religious worship or religious education purposes on land owned by, or held in trust for the use of any religious organization. Such structures includes but is not limited to Mary Queen of the Rosary, First Congregational Church, Hillside Baptist Church, Methodist Church, and Cornerstone Community Church.

Section 2. Sexual Offender Residence Prohibition

It is unlawful for any sex offender who is finally classified as a Level 2 or 3 Offender pursuant to the guidelines of the Massachusetts Sex Offender Registry Board, to establish a permanent residence within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship. A map depicting the location of known schools, day care centers, parks, camps, privately owned parks/trusts, elderly housing facilities, public libraries, and places of worship shall be on file and available for viewing at the Spencer Police Department.

Section 3. Notice to Move

Any Level 2 or Level 3 sex offender finally classified as such by the Sex Offender Registry Board, so long as so classified, who establishes a permanent residence within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship shall be in violation of this bylaw and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this bylaw, move from said location to a new location, but said location may not be within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust,

elderly housing facility, public library, or place of worship. Furthermore, it shall be a separate violation each day that a sex offender shall move from one location in the Town of Spencer to another that is within one thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship.

Section 4. Penalties

Violation of this bylaw, may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer of the Town of Spencer including, but not limited to, enforcement by non-criminal disposition pursuant to M.G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:

(a) First Offense: Notification to offender that he/she has thirty (30) days to move.

(b) Subsequent Offense: Non-criminal fine of $300.00 and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has violated a municipal bylaw.

Section 5. Exceptions

A person residing within One Thousand (1,000) feet of any school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship does not commit a violation of this bylaw if any of the following apply:

(a) The person established the permanent residence and reported and registered the residence, in accordance with the regulations of the Massachusetts Sex Offender Registry Board, prior to the effective date of this by-law.

(b) The person was a minor when he/she committed the offense and was not convicted as an adult and who was not classified or is no longer classified as a Level 2 or 3 Sex Offender.

(c) The person is a minor.

(d) The school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship within one thousand (1,000) feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence in accordance with the regulations of the Massachusetts Sex Offender Registry Board.

(e) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility located in the Town of Spencer within the aforementioned one thousand (1,000) foot area.

(f) The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to M.G.L. c. 123 located in the Town of Spencer within the aforementioned one thousand (1,000) foot area.

(g) The person is a mentally ill person subject to guardianship pursuant to M.G.L. c. 201, §6 or a mentally retarded person subject to guardianship pursuant to M.G.L. c. 201

§6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day located in the Town of Spencer within the aforementioned one thousand (1,000) foot area.

Section 6. Forfeiture of Exceptions

If, either after the effective date of this bylaw or after a new school, day care center, park, camp, privately owned park/trust, elderly housing facility, public library, or place of worship opens, a conviction is issued by a court against a sex offender falling within the provisions of Section 2 of this bylaw but otherwise enjoying an exception set forth in sub-paragraph (a), (b) or (d) of Section 5 above, that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this bylaw.

ARTICLE 17 – Right to Farm

(Added 11/1/12 – Article 13)

Section 1. Legislative Purpose and Intent

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Spencer by allowing agricultural uses and related activities to function with minimal conflict with abutters and town agencies. This By-law shall apply to all jurisdictional areas within the Town.

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97. of the Constitution, and all state statutes and regulations thereunder including but not limited to M.G.L. Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111 Section 125A and Chapter 128 Section 1A. We the citizens of Spencer restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").

Section 2. Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

The word "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- Farming in all its branches and the cultivation and tillage of soil
- Dairying
- Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations
- Raising of livestock
- Keeping of horses as a commercial enterprise
- Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposed, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- Operation and transportation of slow-moving farm equipment over roads within the Town
- Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals

- Application of manure, fertilizers and pesticides
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm
- Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto
- Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations.

Section 3. Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Spencer. The above described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land used regulation, which is properly the subject of state statute, regulation, or local zoning law.

Section 4. Disclosure Notification

In order to ensure that prospective owners and prospective tenants are aware of the policy of the Town of Spencer expressed in this By-law regarding agricultural uses, the following notification of this policy shall be prominently posted in the Town Hall within 30 days of this By-law becoming effective. Copies will also be made available for distribution.

> "This notification is to inform persons and entities who are about to acquire or lease real property within the Town of Spencer that it is the policy of the Town of Spencer to conserve, protect and encourage the maintenance and improvement of the agricultural land, for the production of food and other agricultural products and for the preservation of its natural and ecological value. This notification is to further inform such owners and entities that farming activities, including the raising and keeping of livestock, take place in the Town of Spencer and that such activities may cause or create noise, dust and odors, which adversely impact or are incompatible with the use or enjoyment of property within the Town, including the property about to be acquired or leased."

Property owners should make efforts to inform prospective tenants or buyers that Spencer is a Right to Farm community. In addition, the notification language required by this section shall appear annually in the Town's Annual Report.

Section 5. Agricultural Commission

The Town shall establish an Agricultural Commission to represent the Town of Spencer in its pursuit to maintain the rural character and the Spencer farming community in general. Said Commission once appointed shall serve as facilitators for encouraging the pursuit of agriculture in Spencer; shall promote agricultural-based economic opportunities in Town; shall act as mediators, advocates, educators, and/or negotiators on farming issues; shall work for preservation of prime agricultural lands; and shall pursue all methods appropriate to creating a sustainable agricultural community.

The Commission shall consist of five members appointed by the Town Administrator, a minimum of three members who are primarily engaged in farming and two members who are interested in farming. The initial terms for the first members of such Commission shall be two members for a term of three years, two members for a term of two years, one member for a term of one year. Thereafter, the term of each member shall be three years. Up to three alternates may be appointed by the Town Administrator, each for a one-year term. The Town Administrator shall fill any vacancy on said Commission for the unexpired term of the vacancy in order to maintain the cycle of appointments. The remaining members of said Commission may make recommendations of candidates to be appointed by the Board of Selectmen to fill any such vacancy, or take any other action related thereto.

Section 6. Resolution of Disputes

Any person who seeks to complain about the operation of a farm may**,** notwithstanding pursuing other available remedies, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame**.**

Section 7. Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Spencer hereby declares the provision of this By-law to be severable, or take any other action relative thereto.

Article 18 – Treasurer / Collector

(Added 11/27/2018 Special Town Meeting Article 21)

Section 1. Payment Agreements for Properties in Tax Title

A. Pursuant to the provisions of Massachusetts General Laws, Chapter 60, Section 62A, the Treasurer / Collector will pursue and establish a written payment agreement with any person(s) entitled to redeem ownership of parcels taken by the Town for non-payment of real estate taxes ("redeemer").

B. Any property in tax title may be eligible for the establishment of a written payment agreement with the Treasurer / Collector.

C. At the start of the agreement, the redeemer shall pay 25 percent of the total amount due.

D. The agreement's maximum term shall be (5) five years.