

# **TOWNSHIP OF SPENCER COUNTY OF KENT**

## **GENERAL ORDINANCES**

(This compilation includes all currently effective ordinances of the Township, except the zoning ordinance and financing ordinances including amendments adopted as of December 20, 2022.)

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## **OUTDOOR ASSEMBLY ORDINANCE**

**(Uniform Ord. No. III; amended by Ord. Nos. 94-11 and 07-002)**

An ordinance to license, regulate and control, in the interest of the public health, safety and welfare, outdoor gathering of persons in excess of 50 in number, to provide penalties for violations thereof and to repeal all ordinances or parts of ordinances inconsistent therewith.

THE TOWNSHIP OF ORDAINS:

### **Section 1. Name.**

This Ordinance shall be known and cited as the Township Outdoor Assembly Ordinance.

### **Section 2. Definitions.**

A. "Outdoor Assembly," hereinafter referred to as "assembly" means any event, attended by more than 50 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to music festivals, rock festivals, peace festivals or similar gatherings, but does not mean:

1. An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property;

2. An event which is conducted or sponsored by any entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954, being 26 U.S.C. §501(c)(3), as incorporated by reference in Section 201 of the Michigan Income Tax Act of 1967, Act 281 of the Public Acts of 1967, being Section 206.201 of the Compiled Laws of 1948; or

3. An event held entirely within the confines of a permanently enclosed and covered structure.

B. "Person" means any natural person, partnership, corporation, association or organization.

C. "Sponsor" means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

D. "Attendant" means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.

E. "Licensee" means any person to whom a license is issued pursuant to this Ordinance.

### **Section 3.**

A person shall not sponsor, operate, maintain, conduct or promote an outdoor assembly in the Township unless he shall have first made application for, and obtained as hereinafter prescribed, a license for each such assembly.

#### **Section 4. Application for License.**

Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the clerk of the Township of Spencer and shall be made at least 60 days prior to date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee of \$100 and shall include at least the following:

A. The name, age, residence and mailing address of the person making the application (where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than \$500).

B. A statement of the kind, character, and type of proposed assembly.

C. The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.

D. The date or dates and hours during which the proposed assembly is to be conducted.

E. An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

#### **Section 5.**

Each application shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective licensee's plans to provide for the following:

A. Police and fire protection.

B. Food and water supply and facilities.

C. Health and sanitation facilities.

D. Medical facilities and services including emergency vehicles and equipment.

E. Vehicle access and parking facilities.

F. Camping and trailer facilities.

G. Illumination facilities.

H. Communication facilities.

I. Noise control and abatement.

- J. Facilities for clean-up and waste disposal.
- K. Insurance and bonding arrangements.

In addition, the application shall be accompanied by a map or maps of the overall site of the proposed assembly.

**Section 6.**

On receipt by the clerk, copies of the application shall be forwarded to the chief law enforcement and health officers for the county, the state fire marshal, and to such other appropriate public officials as the clerk deems necessary. Such officers and officials shall review and investigate matters relevant to the application and within 20 days of receipt thereof shall report their findings and recommendations to the Township Board.

**Section 7.**

Within 30 days of the filing of the application, the Township Board shall issue, set conditions prerequisite to the issuance of, or deny, a license. The Township Board may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, within five days of such action, notice thereof must be mailed to the applicant by certified mail, and, in the case of denial, the reasons therefor shall be stated in the notice.

**Section 8.**

A license may be denied if:

- (a) The applicant fails to comply with any or all requirements of this Ordinance, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or,
- (b) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

**Section 9.**

A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this Ordinance. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.

**Section 10.**

In processing an application the Township Board shall, at a minimum, require the following:

- A. **Security Personnel.** The licensee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the

maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the chief law enforcement officer for the county in cooperation with the director of state police is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.

**B. Water Facilities.** The licensee shall provide potable water, sufficient in quantity and pressure to assure proper operation of all water-using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located and approved in accordance with Act 294, Public Acts of 1965, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the county health officer.

**C. Restroom Facilities.** The licensee shall provide separate enclosed flush-type water closets as defined in Act 266, Public Acts of 1929, and, the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local law. If such flush-type facilities are not available, the county health officer may permit the use of other facilities which are in compliance with Act 273, Public Acts of 1939, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.

The licensee shall provide lavatory and drinking water facilities constructed, installed, and maintained in accordance with Act 266 of the Public Acts of 1929, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water and soap and paper towels.

The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

<b>Facilities</b>	<b>Male</b>	<b>Female</b>
Toilets	1:300	1:200
Urinals	1:100	
Lavatories	1:200	1:200
Drinking Fountains		1:500
Taps of Faucets		1:500

Where the assembly is to continue for more than 12 hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

<b>Facilities</b>	<b>Male</b>	<b>Female</b>
Shower Heads	1:100	1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects and shall at all times be in operable condition as determined by the county health officer.



D. **Food Service.** If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.

If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.

E. **Medical Facilities.** If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be prescribed by the county health officer.

F. **Liquid Waste Disposal.** The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the county health officer. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled, "Manual of Septic Tank Practice." If liquid waste retention and disposal is dependant upon pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, and, prior to issuance of any license, the licensee shall provide the county health officer with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will assure proper, effective and frequent removal of liquid waste from the premises so as to neither create a nuisance nor menace to the public health.

G. **Solid Waste Disposal.** The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, fly tight, and rodent proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the county health officer with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will assure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harbourage or feeding of vermin.

H. **Public Bathing Beaches.** The licensee shall provide or make available or accessible public bathing beaches only in accordance with Act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

I. **Public Swimming Pools.** The licensee shall provide or make available public swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

J. **Access and Traffic Control.** The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the State of Michigan. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the director of the Department of State Police and the director of the Department of State Highways must approve the licensee's plan for access and traffic control.

K. **Parking.** The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one automobile space for every four attendants.

L. **Camping and Trailer Parking.** A licensee who permits attendants to remain on the premises between the hours of 2 a.m. and 6 a.m. shall provide for camping and trailer parking and facilities in accordance with Act 171, Public Acts of 1970, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision by state or local law. The provisions of 1970 Act 171 shall be effective and applicable upon the adoption of said ordinance.

M. **Illumination.** The licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendants. The licensee's lighting plans shall be approved by the building inspector.

N. **Insurance.** Before the issuance of a license, the licensee, shall obtain public liability insurance with limits of not less than \$300,000 and property damage insurance with a limit of not less than \$25,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the clerk of the Township in writing at least ten days before the expiration or cancellation of said insurance.

O. **Bonding.** Before the issuance of a license the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000 in a form to be approved by the Township attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Ordinance and all applicable provisions of state or local law, and which shall indemnify the Township, its agents, officers, and employees and the Township Board against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.

P. **Fire Protection.** The licensee shall, at his own expense, take adequate steps as determined by the state fire marshal, to insure fire protection.

Q. Sound producing equipment, including but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of the Township.

R. **Fencing.** The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.

S. **Communications.** The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 1,000 attendants.

T. **Miscellaneous.** Prior to the issuance of a license, the Township Board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare and property of attendants or of citizens of the Township of Spencer.

#### **Section 11. Revocation.**

The Township Board may revoke a license whenever the licensee, his employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth herein or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated herein by reference.

#### **Section 12. Violations.**

It shall be unlawful for a licensee, his employee, or agent, to knowingly:

A. Advertise, promote or sell tickets to, conduct, or operate an assembly without first obtaining a license as herein provided.

B. Conduct or operate an assembly in such a manner as to create a public or private nuisance.

C. Conduct or permit, with the assembly, any obscene display, exhibition, show, play, entertainment or amusement.

D. Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct.

E. Permit any person to unlawfully consume, sell, or possess, intoxicating liquor while on the premises.

F. Permit any person to unlawfully use, sell, or possess any narcotics, narcotic drugs, drugs or other substances as defined in Act 343, Public Acts of 1952.

Any of the above enumerated violations is a separate offense and is a nuisance per se immediately enjoined in the circuit court. Any violation is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

It is further provided that any of the above violations is a sufficient basis for revocation of the license and for the immediate enjoining in the circuit court of the assembly.

**Section 13. Severability.**

If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and to this end this Ordinance is declared to be severable.

**Section 14. Effective Date.**

This Ordinance shall be effective from and after November 15, 1977.

## **SPEED REGULATION OF WATERCRAFT ORDINANCE**

**(Ord. No. 8-23-78)**

An ordinance to regulate the speed of vessels and to provide for the safe use of the waters in Spencer Township, Kent County; enacted under the authority of Act 303, Public Acts of 1967, as amended (MSA 18.1287(17)), being identical to State Administrative Rules filed in the office of the Secretary of State.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1.**

All words and phrases used in this Ordinance shall be construed and have the same meanings as those words and phrases defined in Act 303, PA 1967, as amended, MSA 18.1287(8).

### **Section 2.**

These rules take effect 15 days after filing with the Secretary of State (by authority conferred on the commission of natural resources by Section 13 of Act No. 303 of the Public Acts of 1967, as amended, being §281.1013 of the Michigan Compiled Laws).

#### **Regulation No. 41, Kent County.**

**R 281.741.3.** Blue Lake; hours for slow no-wake speed.

Rule 3. On the waters of Blue Lake, Sections 10 and 15, T10N, R9W, Spencer Township, Kent County, it is unlawful for the operator of a vessel to exceed a slow no-wake speed between the hours of 6:30 p.m. and 10:00 a.m. of the following day.

**R 281.741.4.** Maston and Muskellonge Lakes; hours for slow no-wake speed.

Rule 4. On the waters of Maston and Muskellonge Lakes, Sections 2, 3, 10 and 11, T10N, R9W, Spencer Township, Kent County, it is unlawful for the operator of a vessel to exceed a slow no-wake speed between the hours of 6:30 p.m. and 10:00 a.m. of the following day.

**R 281.741.5.** Maston and Muskellonge Lakes; channel connecting; slow no-wake speed.

Rule 5. On the waters of the channel connecting Maston to Muskellonge Lake, Sections 10 and 11, T10N, R9W, Spencer Township, Kent County, it is unlawful for the operator of a vessel to exceed a slow no-wake speed.

**Section 3.**

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 4.**

Violations of this Ordinance are a misdemeanor and may be punished by a fine not to exceed \$100 together with costs of prosecution or imprisonment in the county jail or such other place of detention as the court may prescribe, for a period of not to exceed 90 days, or said fine, costs of prosecution, and imprisonment, at the discretion of the court.

**Section 5.**

This Ordinance and the various parts, sections, subsections, provisions, sentences and clauses are severable. If any part of this Ordinance is found to be unconstitutional or invalid it is declared the remainder of this Ordinance shall not be affected hereby.

**Section 6.**

This Ordinance shall take effect 30 days after its publication in the *Cedar Springs Clipper*.

## ANIMAL CONTROL ORDINANCE

(Ord. No. 6-4-20-82; amended by Ord. Nos. 94-12, 97-9 and 07-002)

An ordinance to provide for and to protect the health, safety and welfare of the inhabitants of Spencer Township and the public.

THE TOWNSHIP OF SPENCER ORDAINS:

### Article I. General.

(1) It is deemed by the Township of Spencer that the ownership of an animal is a privilege which carries with it responsibilities to the Township and residents with regard to the care and custody of said animal. It is the intent of this Ordinance to protect the people of Spencer Township from problems caused by unrestrained or annoying animals.

(2) This Ordinance shall be known as, and may be cited and referred to as “The Animal Control Ordinance of Spencer Township.”

(3) Any person violating the provisions of this Ordinance is guilty of a misdemeanor punishable by a fine not exceeding \$100 or by imprisonment in the county correctional facility for a period not exceeding 90 days, or both such fine and imprisonment.

(4) If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

### Article II. Definitions.

(1) **Definitions.** Whenever, in this Ordinance, the following terms are used they shall have the meaning as described to them in this article, unless it is apparent from the context thereof that some other meaning is intended.

(2) **Animal.** As used in this Ordinance, “animal” shall mean dog, cat, bird, reptile, mammal, fish or any other dumb creature.

(3) **Animal Control Officer.** The animal control officer shall mean the agent of the Kent County Department of Animal Control or any other officers designated for such duties by the Township.

(4) **Animal Shelter.** The animal shelter may mean either the Kent County Animal Shelter or the Humane Society of Kent County.

(5) **Township.** As used in this Ordinance shall mean the Township of Spencer.

(6) **County.** As used in this Ordinance shall mean the County of Kent.

(7) **Director.** As used in this Ordinance shall refer to the director of the Kent County Department of Animal Control.

(8) **Department.** As used in this Ordinance shall refer to the Kent County Department of Animal Control.

(9) **Impounded.** If any animal pursuant to this Ordinance or any statute has been received into the custody of any animal shelter, such animal will have been “impounded” as that word is used in this Ordinance.

(10) **Owner.** “Owner” when applied to the proprietorship of an animal means every person having a right of property in the animal, or every person who keeps or harbors the animal or has it in his care, or every person who permits the animal to remain on or about any premises occupied by him. For the purposes of this act any person keeping or harboring any animal for seven consecutive days shall be deemed the owner thereof within the meaning of this Ordinance.

(11) **Person.** Includes an individual, partnership, corporation, trust, and any association of persons.

### **Article III. Dogs.**

(1) **Licenses.** All dogs over the age of six months within the Township shall at all times be currently licensed in accordance with the requirements of state law and of the county Animal Control Ordinance. A license tag issued by the county shall be securely affixed to a collar, harness, or other device which shall be worn by the day at all times unless the dog is within the confines of the residence of the owner or of a dog run or other secure enclosure on the owner’s premises.

(2) **Limit on Number of Dogs.** No person shall have within his care or her care, custody or control within the Township more than three dogs other than dogs under six months of age born to a female under the care, custody or control of such person; provided, however that a kennel complying in all respects with Township and county regulations may have a maximum number of 20 dogs.

(3) **Barking Dogs.** No person owning or having charge, care, custody or control of a dog shall permit such dog at any time, by loud or frequent or habitual barking, yelping or howling, to cause annoyance to people in the neighborhood or to persons utilizing the public walks or streets of the neighborhood.

(4) **Dogs Running at Large.** No person owning or having charge, care, custody or control of any dog shall cause, permit, or allow the same to run at large or to be upon any highway, street, lane, alley, court, or other public place, or upon any private property or premises other than those of the person owning or having charge, care, custody, or control of such dog, within the Township, unless such dog is restrained by a substantial chain or leash not exceeding six feet in length and is in the charge, care, custody, or control of a person with the ability to restrain it.

(5) **Female Dogs in Heat.** No person owning or having charge, care, custody or control of an unsprayed female dog shall permit such dog to be or to run at large during the copulative season (i.e., when said dog is in heat as that term is commonly understood) unless such dog shall be restrained as provided in (4) above at all times other than when the dog is within the confines of the residence of the owner or of a dog run or other secure enclosure on the owner’s premises.



(6) **Kennels.** Kennels are permitted only within the R-A Rural Agricultural District, subject to the terms of the Spencer Township Zoning Ordinance and all applicable Kent County regulations.

(7) **Kennel Licensing.** The Township Board of the Township of Spencer shall have the authority to grant consent for the issuance of a kennel permit by the Animal Control Division of the Kent County Health Department. No kennel may be approved unless licensed by Kent County under the applicable county ordinance or state law. The Township Board shall not grant consent for the issuance of a kennel permit by the Animal Control Division of the Kent County Health Department unless all of the following conditions are met:

1. The kennel complies with all applicable requirements set forth in the Spencer Township Zoning Ordinance and this Ordinance.

2. The minimum lot area is two acres; for four dogs; three acres for eight dogs; four acres for 12 dogs; five acres for 16 dogs; and six acres for 20 dogs.

3. Buildings for the housing of dogs and all animal runs or exercise areas shall not be located closer than 200 feet from any property line or street right-of-way line.

4. The lands on which the kennel is located shall include storage adequate for the prompt and sanitary disposal of manure and refuse. All kennels shall have and maintain adequate insect control measures and shall be suitably fenced or screened.

5. If dog kennel runs shall be of concrete, they must provide adequate draining for sanitation. If sand or pea gravel is used, droppings must be picked up and disposed of promptly and the runs treated regularly with an effective disinfectant. Runs made of other materials shall require special approval from the director of Animal Control.

6. Each kennel must be inspected and approved by the Kent County director of Animal Control or the director's agents on an annual basis.

7. The operation of the kennel shall not have serious adverse effects on adjacent or nearby lands nor constitute a nuisance.

(8) **Revocation.** If at any time the Township Board determines that the owner, operator or license holder of a kennel is not in compliance with this Ordinance or that it is not in the best interest of the Township to permit a kennel license, such a license may be revoked by the Township Board.

(9) **Modification of License.** If at any time the Township Board determines it is in the interest of the Township to change the conditions of licensure, such conditions may be changed after reasonable notice and opportunity to be heard has been afforded to the license holder.

#### **Article IV. Vicious Animals.**

(1) A vicious animal shall at all times when not securely confined be securely muzzled and led by a leash. Any animal shall be deemed vicious which has bitten a person or domestic

animal without molestation, or, which by its actions, gives indications that it is liable to bite any person or domestic animal without molestation.

(2) **Prosecutions.** On sworn complaint that any one of the following facts exist:

1. That any animal has attacked or bitten a person;
2. That any animal shows vicious habits or molests passers-by when lawfully on the public highways;

the county may secure a summons against the owner of said animal commanding him to appear and show cause why said animal should not be ordered to be confined or destroyed. Upon such hearing, the district court shall proceed to determine whether it shows vicious habits or molests passers-by when lawfully on the public highway, and if the court shall so find, it shall forthwith either order said animal confined to the premises of the owner or shall order the director of Animal Control to cause said animal to be destroyed or shall enter such other order relative to the care of such animal as the court shall determine to be appropriate.

(3) **Reserved.**

(4) **Penalty.** Any person who shall violate Sections 1 or 2 of Article IV hereof, or who shall violate any order to confine an animal owned by him to his premises pursuant to the provisions of this Ordinance, or who shall, after demand, refuse to surrender any animal owned by him pursuant to an order made under this Ordinance, shall be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment of not more than 90 days, or both such fine and imprisonment. Violation of any other provision of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

## LIQUOR LICENSES ORDINANCE

(Ord. No. 3-5-18-83; amended by Ord. No. 08-2017)

An ordinance to regulate the issuance of liquor licenses, their renewal, revocation and to protect the health, safety and welfare of the inhabitants of the Township of Spencer.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Application for New License.**

(1) **Application.** Applications for license to sell beer and wine or spirits for consumption on the premises including but not limited to temporary permits shall be made to the Township Board in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:

(a) The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person.

(b) The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.

(c) The character of business of the applicant, and in the case of a corporation, the object for which it was formed.

(d) The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.

(e) The location and description of the premises or place of business which is to be operated under such license.

(f) A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.

(g) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Ordinance or the laws of the State of Michigan.

(h) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the Township in the conduct of its business.

(i) The application shall be accompanied by building and plat plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized.

The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening, and noise control.

(2) **Restrictions on Licenses.** No such license shall be approved by the Township for issuance to:

(a) A person whose license, under this Ordinance has been revoked for cause.

(b) A person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.

(c) A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.

(d) A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than 5 percent of the stock of such corporation would not be eligible to receive a license hereunder for any reason.

(e) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.

(f) A person, co-partnership or corporation who has been convicted of a violation of any federal or state law concerning the manufacture, possession or use or sale of alcoholic liquor.

(g) A person who does not own or have an option to purchase the premises for which a license is sought or does not have a lease therefor for the full period for which the license is issued.

(h) Any person who is a law enforcing public official or spouse thereof who is disqualified from being issued, or having interest in, any license as provided by MCL 436.1523. *[Amended 10/19/2017; Effective 11/2/2017]*

(i) For premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any violations of any ordinances of the Township or state statute or rule or regulations of any agency thereof.

(j) For premises where it is determined by a majority of the Township Board that the premises do not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control.

(k) Where the Township Board determines, by majority vote, that the proposed location is inappropriate considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; the attitude of adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of the inconsistent zoning classification; and accessibility from primary roads or state highways.

(3) **Commencement of Operations.** Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six months of the action of the Township Board or Michigan Liquor Control Commission approving such license, whichever occurs last. Any failure to commence remodeling or construction within that period, or any unusual delay in completion thereof, shall be grounds for the Township Board to request revocation of the license in the manner provided by this ordinance. *[Amended 10/19/2017; Effective 11/2/2017]*

(4) **License Hearing.** The Township Board shall grant a public hearing upon the license application. Following such hearing the Board shall submit to the applicant a written statement of its findings and determination. The Board's determination shall be based upon satisfactory compliance with the restrictions set forth in Section 1(2)(a) through (k) above.

(5) The term person as used herein shall include a partnership and/or a corporation.

(6) Nothing herein shall be construed to require the Township or the Township Board to issue a license that may be available due to the population of the Township. Whether a license should be issued shall be determined in the sole discretion of the Township Board.

(7) Where there are competing applications for an available liquor license, the Township Board may choose which of such applicants, if any, should receive approval for such license. In making such determination the Township Board may consider but not be limited to the following:

- (a) Zoning of parcel and adjacent parcels.
- (b) Availability to utilities.
- (c) Location of churches, schools or other places of public assembly.
- (d) What uses will be conducted with the license.
- (e) Traffic on adjacent streets and the existence of any traffic hazards in the area or produced by the applicant's proposed use.
- (f) Economic backing of applicant sufficient to conduct such a use.
- (g) The design and layout of improvements of the applicant for his proposed use.
- (h) Effect upon existing adjacent uses.
- (i) The location of other licensed establishments as it relates to potential traffic effects or hazards.
- (j) Any information contained in the application or requirements of this Ordinance.

**Section 2. Objections to Renewal and Request for Revocation.**

(1) **Procedure.** Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the Township Board shall serve the license holder, by first class mail, mailed not less than ten days prior to hearing with notice of a hearing, which notice shall contain the following:

- (a) Notice of proposed action.
- (b) Reasons for the proposed action.
- (c) Date, time and place of hearing.
- (d) A statement that the licensee may present evidence and testimony and confront adverse witnesses.

Following hearing, the Township Board shall submit to the license holder and the commission a written statement of its findings and determination.

(2) **Criteria for Non-Renewal or Revocation.** The Township Board shall recommend non-renewal or revocation of a license upon a determination by it that based upon a preponderance of the evidence presented at hearing either of the following exist:

- (a) Violation of any of the restrictions on licenses set forth in Section 1(2)(a) through (k) above.
- (b) Maintenance of a nuisance upon the premises.
- (c) Fraudulent information provided upon original application or application for renewal.

**Section 3. Effect.**

Any decision made herein shall be sent to the state commission or agency responsible for issuing state liquor licenses and permits and shall act as a determination by the Township that such state agency should likewise not issue or renew any such permit or license.

**Section 4. Separability.**

Sections of this Ordinance shall be deemed separable, and should any section, clause or provisions of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

This Ordinance shall take effect 30 days after publication.

## CEMETERY ORDINANCE

(Ord. No. 09-003)

An ordinance to protect public health, safety and general welfare by establishing regulations relating to the ownership, operation, repair, maintenance, control and management of cemeteries for human remains which are owned by the Township, to provide penalties for the violation of this Ordinance and to repeal all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Ordinance Title.**

This Ordinance shall be known and may be cited as “The Spencer Township Cemetery Ordinance.”

### **Section 2. Definitions.**

The following words and phrases used in this Ordinance shall have the meanings stated respectively in this section:

A. **Grave Lot.** A designated area or space within a Township cemetery sufficient to accommodate from four to eight grave sites.

B. **Grave Site or Plot.** An area or space that is designed for the earth interment of one adult in a Township cemetery.

C. **Right of Burial.** A right of earth interment in a grave site within a grave lot.

D. **Owner or Owners.** A person or persons who has been given or issued by the Township a valid certificate or other authorized document evidencing that the person or persons has purchased a grave site in a Township cemetery.

### **Section 3. Sale of Grave Sites.**

A. Grave sites shall be available only by purchase from the Township or by transfer between eligible owners if such transfer is approved by the Township Clerk and recorded in the cemetery records of the Township.

B. Grave sites shall be sold only to residents or property taxpayers of the Township, subject, however, to subsection C of this section. No sale of grave sites shall be made to funeral directors, except to them as individuals eligible to purchase grave sites under the terms of this section. For purposes of this subsection, a resident or property taxpayer of the Township shall be a person who is an eligible Township voter, or who owns real property in the Township or who claims the Township as his or her last residence.

C. Notwithstanding the stated restriction in subsection B on the sale of grave sites to only residents or property taxpayers of the Township, the Township may also sell grave sites to purchasers who disclose sufficient personal reasons for burial within a Township cemetery, because of their previous residence in the Township, or the previous Township residence of the person for whom a grave site is sought, or because of their family relationship to persons already interred in a Township cemetery.

D. The sale of grave sites shall be made only by means of a form or certificate approved by the Township Board and signed by the Township Clerk. The sale of a grave site shall grant a right of burial only, and shall not convey any other title or interest in or to the grave site or grave lot.

E. Grave sites may be transferred only to those persons eligible to be original purchasers of grave sites within a Township cemetery. Such transfer may be accomplished only by a written and signed endorsement or assignment written upon the original grave site certificate as issued by the Township Clerk. Any such endorsement or assignment shall also be signed and approved by the Township Clerk, and shall be entered into the official cemetery records of the Township. Upon the completion of such approved assignment, and the recording of the same in the Township cemetery records, the Township Clerk shall issue a new grave site certificate to the assignee, and shall then cancel the original grave site certificate, and mark the Township cemetery records accordingly.

#### **Section 4. Fees and Charges for Grave Sites.**

A. The purchase price for grave sites shall be as determined by resolution adopted by the Township Board. The size, configuration and location of grave sites shall similarly be determined by resolution adopted by the Township Board.

B. The fee or other charge for the transfer of one or more grave sites from an original purchaser or previous assignee to a qualified assignee, including the recording of the transfer in the Township cemetery records, shall be as determined by resolution of the Township Board.

C. Such fees and charges shall be paid to the Township Clerk and shall be deposited into the cemetery fund of the Township.

#### **Section 5. Opening and Closing of Graves.**

A. No grave site shall be opened or closed except under the direction and control of the Township Sexton; provided, however, that this provision shall not apply to properly-conducted proceedings for the removal and re-interment of previously interred remains, under the lawful supervision of the County Health Department or other agency having jurisdiction.

B. The fee or charge for grave openings, grave closings and all other cemetery services shall be established by resolution of the Township Board. All such fees and charges shall be payable to the Township and shall be deposited in the Township cemetery fund.

C. No Township employee may solicit or accept any form of payment or gratuity for work or services rendered in or associated with a Township cemetery or any grave site therein. Township cemetery employees shall not perform work for grave site owners or other parties other than the Township, except as specifically permitted by the Township Board.



D. The full purchase price of a grave site and the charge for grave opening shall be paid prior to any interment in the grave site. The charge for any disinterment shall be paid, in advance, to the Treasurer.

**Section 6. Grave Markers.**

A. For purposes of this section, a grave marker shall consist of a monument, marker, tablet, tombstone, or headstone, placed for the purpose of permanently marking an individual or family grave site or grave lot.

B. All markers shall consist of stone or other material that is equally durable.

C. All grave markers shall have a generally flat surface. Markers shall be placed firmly on the ground, but they may project above the ground surface. Only one marker shall be permitted for each grave site.

D. A grave marker must be placed on and be supported by a footing or foundation that is at or below ground level. The placement of the grave marker and the construction of the footing or foundation shall be the responsibility of the monument company and the Township Sexton. All costs for the purchase and placement of markers, together with footings or foundations, shall be paid directly to the monument company. The Township shall have no responsibility for the placement of markers or the payment of the costs thereof.

**Section 7. Regulations for Interment.**

A. Only one person may be buried in a grave site, except that one adult and one infant may be buried in one grave site, or two children may be buried in one grave site if space allows. In addition, the cremated remains of two persons, or one person and the cremated remains of one other person, may be buried in a grave site.

B. The Township shall be notified at least 24 hours in advance of the proposed time of any interment in a Township cemetery, so as to allow sufficient time for the opening of the grave site.

C. Prior to interment, the grave site certificate, together with appropriate identification of the person to be buried, shall be submitted to the Township Sexton who shall forward the same to the Township Clerk or other designated Township official. In those cases where the grave site certificate has been lost or destroyed, the Township Clerk may consult the Township cemetery records, and if the Clerk then determines that the person proposed to be buried in the grave site is the appropriate person, then the Clerk may authorize the opening of the grave site and the proposed interment.

D. All burials shall be within a standard concrete vault installed in each burial space before interment.

**Section 8. Ground Maintenance of Burial Spaces.**

A. No grading, leveling, or excavating of any burial space, or any other portion of a grave lot, shall be permitted, except upon prior approval of the Township Sexton or Township Clerk.

B. Mounds of earth which would impede or interfere with the efficient use of lawnmowers or other gardening apparatus are prohibited.

C. Only annual flowers and other temporary plantings shall be permitted on a grave lot; permanent plantings of any kind are prohibited, except those planted by the Township.

D. Any artificial flowers or artificial plants that are placed within or near burial spaces must be so placed not earlier than May 15 each year and must be removed not later than October 15 of the same year. All flowers and plants, whether artificial or live, must be placed within 18 inches of a burial space marker.

E. Landscape materials other than earth or sod are prohibited.

F. The Sexton or other person acting in behalf of the Township in the maintenance of a cemetery may remove or trim any tree, plant or shrub located within the cemetery, so as to maintain the appearance and promote the convenient use of the cemetery.

G. Benches, fences, railings, walls, or similar landscaping accessories are not permitted.

H. The Township Sexton may remove and dispose of all artificial or live plants or flowers, emblems, displays, containers and any other objects within or near burial spaces where any such items have become unsightly, a source of litter or a hindrance to proper ground maintenance within the cemetery.

I. All refuse of any kind including dried flowers, wreaths, flower containers, papers and other debris must be fully and promptly removed from the cemetery ground by the persons who placed such materials within the cemetery, or by other persons who may be caring for the burial spaces where any such materials have been placed.

J. The Township shall not be responsible for damage to grave markers or grave sites as a result of the elements, vandalism, thievery, or by other causes beyond the control of the Township.

**Section 9. Conduct of Persons Within the Cemetery.**

A. The cemetery grounds shall not be used as a place for recreational activity. Proper and dignified conduct, appropriate to a place of public burial, shall be observed within the cemetery at all times. The Township may remove from the cemetery any person who acts in a disrespectful manner, inappropriate to the character and nature of the cemetery. Persons are prohibited from picking flowers, breaking or injuring any tree, shrub or plant, writing upon, defacing or destroying any grave marker, memorial, or other structure. No person shall destroy or otherwise disturb the birds or other animal life in the cemetery if not authorized to do so by the Township Board.

B. No person shall loiter, bring in alcoholic beverages or consume them in the cemetery, nor disturb or interfere with any funeral or memorial service or prevent or disturb other persons who are at grave sites or elsewhere in the cemetery for the purpose of honoring or memorializing those interred at any grave site. No person other than a duly authorized law enforcement officer or authorized military escort for a funeral or memorial service shall possess any firearm within the cemetery.

C. The owners of a grave site, their relatives and invited friends and guests shall be permitted at any time to approach and remain at any grave site, for purposes of meditation or in memory or honor of any person interred in the cemetery. Only authorized persons shall enter any cemetery building.

D. Children under 15 years of age shall not be permitted in the cemetery unless they are accompanied by at least one adult who is responsible for them.

E. No loud talking or any other vocal disturbance shall be permitted in the cemetery within hearing distance of persons attending funeral services. No signs, notices or advertisements of any kind shall be allowed in the cemetery, unless placed there by authorized Township employees. Littering within the cemetery is prohibited; smoking in any cemetery building is prohibited.

F. Motor vehicles within the cemetery shall always keep to the right side of a cemetery road. Motor vehicles shall not park or come to a complete stop in front of an open grave unless the occupants of the vehicle are in attendance at a funeral. Motor vehicles shall not be driven off a cemetery road or be driven in a manner such as to damage any grass, tress, shrubbery or plants in the cemetery. No person shall park or leave a motor vehicle in such a location as to prevent any other motor vehicle from passing. Motor vehicles operated within a cemetery shall maintain a speed of no greater than five miles per hour. A vehicle shall not be operated in the cemetery for recreation purposes. Any motor vehicle improperly parked within a cemetery may be removed by the Township, and the owner and/or operator of the vehicle shall be responsible for all costs of such removal.

#### **Section 10. Cemetery Hours.**

Township cemeteries shall generally be open from dawn to dusk. Persons shall not enter into or remain in the Township cemeteries during any other time, except upon the prior approval of the Township Board or the Board's designee.

#### **Section 11. Cemetery Records.**

The Township Clerk shall maintain records of all sale and transfer of grave sites, all burials, burial permits, funds provided for the habitual care of grave lots and grave sites and other matters concerning burials within Township cemeteries. Such records shall be maintained separately from other Township records. They shall be available for public inspection during Township office hours.

**Section 12. Repurchase of Grave Sites and Grave Lots.**

The Township will repurchase any grave sites and grave lots from the owner for the original amount paid to the Township by the purchaser, upon the written request of the owner thereof or the owner's heirs at law or other legal representatives or assigns.

**Section 13. Cemetery Committee.**

In its discretion, the Township Board may establish by resolution an advisory Cemetery Committee, having such responsibilities for Township cemeteries as the Board may determine.

**Section 14. Absence of Township Liability.**

The Township owns and maintains the Township cemeteries in its governmental function as a Township. The Township shall not be liable for liability or damage of any kind with respect to any matter arising out of or in any way related to the ownership or operation of any Township cemetery or any part thereof. No officer, agent, or employee of the Township shall have any liability for any damage which may occur to any persons or property as a result of any act, decision or other consequence or occurrence arising out of any duties or conduct associated with the Township cemeteries. The Township shall not be responsible or liable for any flowers, plants, floral designs, or any other type of decoration or object used on or at any grave or grave site, nor liable or responsible for any grave marker, other than to accept such items for use in the cemetery.

**Section 15. Violations.**

Any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine of not more than \$500.00, along with costs which may include all expenses, direct and indirect, incurred by the Township in connection with the municipal civil infraction. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance. The sanctions herein provided for shall be in addition to any injunctive or other relief which might be available or appropriate under the circumstances.

**Section 16. Repeal and Severability.**

The several provisions of this Ordinance are declared to be separate; if any court of law shall hold that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this Ordinance. The existing Township cemetery ordinance, being Ordinance No. 4-2-1983; as amended by Ordinance Nos. 94-14 and 07-002 is repealed as of the effective date of this Ordinance.

**Section 17. Publication; Effective Date.**

This Ordinance shall take effect 30 days following publication of the ordinance, or a summary thereof, as provided by law.

## **DISORDERLY CONDUCT ORDINANCE**

**(Ord. No. 8-19-21-84)**

An ordinance to prohibit disorderly conduct and other miscellaneous offenses.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section I. Definitions.**

The term “public place” as used in this chapter shall mean any street, alley, park, public building, any place of business or assembly upon to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

### **Section II. Acts Prohibited.**

No person shall:

- (a) Commit an assault, or an assault and battery on any person.
- (b) Engage in any disturbance, fight, or quarrel in a public place.
- (c) Be drunk in any public place or under the influence of any narcotic drug in any public place.
- (d) Engage in any indecent insulting, immoral, or obscene conduct in any public place.
- (e) Insult, accost, molest, or otherwise annoy, either by word of mouth, sign or motion, any person in any public place.
- (f) Collect or stand in crowds, or arrange, encourage, or abet the collection of persons in crowds for unlawful mischievous purposes in any public place to the annoyance or inconvenience of others.
- (g) Jostle or roughly crowd persons in any street, alley, park, or public building.
- (h) Loiter on any street or sidewalk or in any park or public building or conduct himself in any public place so as to obstruct the free and interrupted passage of the public.
- (i) Willfully destroy, remove, damage, alter or in any manner deface any property not his or her own.
- (j) Beg in any public place.
- (k) Engage in peeping in the windows of any inhabited place.
- (l) Swim or bathe in any public place without wearing proper apparel.
- (m) Make any immoral exhibition or indecent exposure of his or her person.

- (n) Engage in any act of prostitution or gross indecency.
- (o) Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act.
- (p) Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor or narcotics, or where any other illegal or immoral business or occupation is permitted or conducted.
- (q) Disturb the public peace by loud, boisterous or vulgar conduct.
- (r) Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous, or disorderly persons.
- (s) Obstruct, resist, hinder, or oppose any member of the police force, or any police officer in the discharge of his duties as such.
- (t) Knowingly furnish to any police officer or other official a false name, false address or false information in connection with any arrest or investigation.
- (u) Knowingly make to any police officer a fictitious report of the purported commission of any crime or misdemeanor.
- (v) Trespass or unlawfully remain upon the premises of another to the annoyance or disturbance of the lawful occupant or his agent.
- (w) Prowl about on the private premises of any other person in the nighttime without authority or the permission of such premises.
- (x) Wrongfully throw or propel any snowball, missile or object from any moving automobile.
- (y) Wrongfully throw or propel any snowball, missile or object toward any person or automobile.
- (z) **Minor in Possession of Alcoholic Liquors.** No person under the age of 21 years shall purchase, or knowingly possess or transport any alcoholic liquor, or knowingly possess, transport, or have under his control in any motor vehicle any alcoholic liquor unless said person's employed by a license as deferred in Public Acts 1952, No. 227, as amended, and is possessing, transporting or having such alcoholic liquor in a motor vehicle under his control during regular working hours and in the course of his employment.

## TRASH ORDINANCE

(Ord. No. 3-21-19-85; amended by Ord. Nos. 94-10 and 07-002)

An ordinance to prevent, reduce or eliminate blight, blighting factors, or causes of blight, within the Township, and to secure the public health, safety, and general welfare by prohibiting the accumulation of trash and junk or either of them on premises other than in properly designated sanitary landfills or licensed junk yards, and to provide penalties for the violation of said ordinance and to amend Uniform Ordinance No. II adopted on or about November 15, 1977.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Definitions.**

A. The terms “trash” and “junk” are used synonymously and each as herein shall include the following: Used articles or used pieces of iron, scrap metal, automobile bodies or parts of machinery or junked or discarded machinery, used lumber which may be used as a harborage for rats, ashes, garbage, industrial by-products or waste, empty cans, food containers, bottles, crockery, utensils of any kind, boxes, barrels, and all other articles customarily considered trash or junk and which are not housed in a building.

B. The term “person” as used herein shall include any person, firm or corporation.

### **Section 2. Accumulation of Trash Longer than Eight Days; Unlawful.**

It shall be unlawful for any person to accumulate, place, store, or allow or permit the accumulation, placement or storage of trash or junk on premises in Spencer Township, except in a lawful sanitary landfill, a lawful junk yard, or not to exceed eight days storage in watertight storage receptacles designed for the temporary accumulation of trash. Such receptacles must have tight-fitting, watertight covers.

### **Section 3. Penalties.**

Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, “subsequent offense” means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

**Section 4. Severability.**

Should any section, clause or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part declared to be invalid.

**Section 5. Effective Date.**

A. This Ordinance was adopted by the Township Board of Spencer Township at its meeting held on the 19th day of March, 1985.

This Ordinance shall be effective 30 days after its publication in a newspaper of general circulation in Spencer Township.



## **JUNK AND INOPERABLE VEHICLES ORDINANCE**

**(Ord. No. 3-21-19-85; amended by Ord. Nos. 94-9 and 07-002)**

An ordinance to provide for the regulation and removal of junk and inoperable vehicles and motor vehicles and to amend Uniform Ordinance No. 1 adopted on or about November 15, 1977.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Definitions.**

A. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon rails or tracks.

B. "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from over-head trolley wires, but not operated upon rails.

C. "Inoperable vehicle or motor vehicle" means any vehicle or motor vehicle which cannot be started or legally or physically operated on city streets or public highways by virtue of lacking the equipment required by the laws of the State of Michigan, or which does not bear valid and current license plates.

D. "Junked vehicles or motor vehicles" include all parts or accessories of vehicles or motor vehicles without which vehicles or motor vehicles cannot be operated in a safe manner on city streets or public highways.

E. "Junked vehicles or motor vehicles" means vehicles or motor vehicles which have been so damaged or dismantled as to be total losses.

F. "Total loss" means the cost to repair a damaged or dismantled vehicle or motor vehicle exceeds the fair market value for such vehicle. Fair market value may be determined by using any nationally recognized appraisal books or method.

### **Section 2. Storage of Inoperable or Junked Vehicles or Motor Vehicles.**

No person, firm, or corporation shall accumulate, store, place or permit the accumulation, storage, or placement of any inoperable or junk vehicle or motor vehicle in Spencer Township, for more than 48 hours, unless such inoperable or junk vehicle or motor vehicle is stored in compliance with the zoning ordinance of Spencer Township or in enclosed garages or other structures.

### **Section 3. Prima Facie Evidence.**

The ownership, occupation or use of land by any person, firm or corporation upon which an inoperable or junked vehicle or motor vehicle are accumulated, stored, or placed shall be prima facie evidence that such person, firm, or corporation accumulated, stored or placed such inoperable vehicle or motor vehicle upon such land, or permitted such inoperable vehicle or motor vehicle to be accumulated, stored or placed upon such land.

**Section 4. Penalties.**

Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

**Section 5. Adoption and Effective Date.**

A. This Ordinance was adopted by the Township Board of Spencer Township at a regular meeting held on the 19th day of March, 1985.

B. This Ordinance shall be effective 30 days after its publication in a newspaper of general circulation in Spencer Township.

## **BOCA PLUMBING CODE OF 1985 ORDINANCE**

**(Ord. No. 6-31-17-86; amended by Ord. Nos. 8-35-19-86, 94-15 and 07-002)**

An ordinance to assume responsibility for administration and enforcement of the State Construction Code of Michigan and to designate an enforcing agency therefor.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Code Adopted.**

Spencer Township hereby adopts the Michigan State Construction Code being the BOCA Basis Plumbing Code 1985 together with all additions, amendments and deletions thereof as adopted by the State Construction Code Commission.

### **Section 2. Administration and Enforcement.**

Administration and enforcement of said Act throughout Spencer Township shall be conducted by the director of the Bureau of Construction Codes as established by the State Construction Code Act of 1972, as amended.

### **Section 3. Enforcing Agency.**

The building inspector's office of Spencer Township is hereby designated the enforcing agency that shall discharge the responsibility under Act No. 230 of the Public Acts of 1972.

### **Section 4. Conflicting Ordinances Repealed.**

All ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the State Construction Code which are inconsistent with the provisions of this Ordinance are hereby repealed.

### **Section 5. Effective Date.**

This Ordinance shall be effective 30 days after adoption thereof.

### **Section 6.**

Failure to comply with a stop work order issued by the building official shall be a misdemeanor punishable by a fine of not more than \$500 or imprisonment for no more than 90 days, or both such fine and imprisonment. Violation of any other provisions of the Plumbing Code shall be a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first

offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

## NATIONAL ELECTRIC CODE ORDINANCE

(Ord. No. 6-32-17-86; amended by Ord. Nos. 94-16 and 07-002)

An ordinance to assume responsibility for administration and enforcement of the State Construction Code of Michigan and to designate an enforcing agency therefor.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Code Adopted.**

Spencer Township hereby adopts the Michigan State Construction Code being the National Electrical Code 1985 together with all additions, amendments and deletions thereof as adopted by the State Construction Code Commission.

### **Section 2. Administration and Enforcement.**

Spencer Township hereby assumes responsibility for administration and enforcement of said Act throughout Spencer Township.

### **Section 3. Enforcing Agency.**

The building inspector's office of Spencer Township is hereby designated the enforcing agency that shall discharge the responsibility under Act No. 230 of the Public Acts of 1972.

### **Section 4. Conflicting Ordinances Repealed.**

All ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the State Construction Code which are inconsistent with the provisions of this Ordinance are hereby repealed.

### **Section 5. Effective Date.**

This Ordinance shall be effective 30 days after adoption thereof.

### **Section 6.**

Failure to comply with a stop work order issued by the building official shall be a misdemeanor punishable by a fine of not more than \$500 or imprisonment for no more than 90 days, or both such fine and imprisonment. Violation of any other provisions of the Electrical Code shall be a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first

offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

## **BOCA BUILDING CODE ORDINANCE**

**(Ord. No. 6-33-17-86; amended by Ord. Nos. 94-17 and 07-002)**

An ordinance to assume responsibility for administration and enforcement of the State Construction Code of Michigan and to designate an enforcing agency therefor.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Code Adopted.**

Spencer Township hereby adopts the Michigan State Construction Code being the BOCA Basic Building Code 1984 together with all additions, amendments and deletions thereof as adopted by the State Construction Code Commission.

### **Section 2. Administration and Enforcement.**

Spencer Township hereby assumes responsibility for administration and enforcement of said Act throughout Spencer Township.

### **Section 3. Enforcing Agency.**

The building inspector's office of Spencer Township is hereby designated the enforcing agency that shall discharge the responsibility under Act No. 230 of the Public Acts of 1972.

### **Section 4. Conflicting Ordinances Repealed.**

All ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the State Construction Code which are inconsistent with the provisions of this Ordinance are hereby repealed.

### **Section 5. Effective Date.**

This Ordinance shall be effective 30 days after adoption thereof.

### **Section 6.**

Failure to comply with a stop work order issued by the building official shall be a misdemeanor punishable by a fine of not more than \$500 or imprisonment for no more than 90 days, or both such fine and imprisonment. Violation of any other provision of the Building Code shall be a municipal civil infraction for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first

offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.



## **BOCA MECHANICAL CODE ORDINANCE**

**(Ord. No. 6-34-17-86; amended by Ord. Nos. 94-18 and 07-002)**

An Ordinance to assume responsibility for administration and enforcement of the State Construction Code of Michigan and to designate an enforcing agency therefor.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Code Adopted.**

Spencer Township hereby adopts the Michigan State Construction Code being the BOCA Basic Mechanical Code 1981 together with all additions, amendments and deletions thereof as adopted by the State Construction Code Commission.

### **Section 2. Administration and Enforcement.**

Spencer Township hereby assumes responsibility for administration and enforcement of said Act throughout Spencer Township.

### **Section 3. Enforcing Agency.**

The building inspector's office of Spencer Township is hereby designated the enforcing agency that shall discharge the responsibility under Act No. 230 of the Public Acts of 1972.

### **Section 4. Conflicting Ordinances Repealed.**

All ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the State Construction Code which are inconsistent with the provisions of this Ordinance are hereby repealed.

### **Section 5. Effective Date.**

This Ordinance shall be effective 30 days after adoption thereof.

### **Section 6.**

Failure to comply with a stop work order issued by the building official shall be a misdemeanor punishable by a fine of not more than \$500 or imprisonment for no more than 90 days, or both such fine and imprisonment. Violation of any other provision of the Mechanical Code shall be a municipal civil infraction for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all of the costs, damages, and expenses provided by law. For purposes of this Ordinance, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first

offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

## **ORDINANCE ENFORCEMENT OFFICER ORDINANCE**

**(Ord. No. 10-37-21-86)**

An ordinance to establish the office of ordinance enforcement officer; to prescribe the duties of said office; to authorize the Township Board to appoint any person or persons to said office; and to amend any ordinances of Spencer Township which conflict with the provisions hereof.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section I. Ordinance Enforcement Officer.**

There is hereby established the office of ordinance enforcement officer within the Township of Spencer, Kent County, Michigan.

### **Section II. Appointment.**

The Township Board of Spencer Township is hereby authorized by resolution, at any regular meeting of said Board, to appoint any person or persons to the office of ordinance enforcement officer for such term or terms as may be designated in said resolution. Said Board may further, by resolution, remove any person from said office, in the discretion of said Board.

### **Section III. Duties.**

The ordinance enforcement officer is hereby authorized to enforce all ordinances of the Township of Spencer, whether heretofore or hereafter enacted, and whether such ordinances specifically designate a different official to enforce the same or do not designate any particular enforcing officer. Where a particular officer is so designated in any such ordinance, the authority of the ordinance enforcement officer to enforce the same shall be in addition and supplementary to the authority granted to such other specific officer. The authority of such ordinance enforcement officer shall also be in addition and supplementary to the authority vested in the Township Supervisor by state statute. The ordinance enforcing authority of the Township Supervisor and the other officers specifically designated in any Township ordinance shall continue in full force and effect and shall in no way be diminished or impaired by the terms of the within ordinance.

### **Section IV. Definitions.**

The ordinance enforcement duties herein authorized shall include, among others, the following: investigation of ordinance violations; serving notice of violations; serving appearance tickets as authorized under Public Act 147 of 1968, as amended; appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators, and such other ordinance enforcing duties as may be delegated by the Township Supervisor or assigned by the Township attorney.

**Section V. Authority.**

The ordinance enforcement officer is hereby declared to be a police officer and peace officer under the authority of Michigan Public Act 246 of 1945, as amended (MSA Section 5.45(1), *et. seq.*), Michigan Public Act 50 of 1919, as amended, (MSA Section 5.191, *et. seq.*).

**Section VI. Saving Clause.**

The provisions of the within ordinance are hereby declared to be severable and the invalidation of any one or more of the same by any judicial determination or statutory or constitutional provision shall not invalidate the remainder of said provisions or ordinance.

**Section VII. Effective Date.**

This Ordinance shall take immediate effect. All ordinances of the Township heretofore or hereafter adopted shall hereafter be supplemented by the terms of the within ordinance.

## **EMPLOYEE PENSION PLAN ORDINANCE**

**(Ord. No. 1-48-10-89)**

An Ordinance to create and establish an annuity or pension plan for the officers and employees of Spencer Township and to authorize the Township Supervisor and the Township Clerk to contract, in the name of the Township, for such plan; to define those classes of officers and employees who shall be covered by such annuity or pension plan; to set forth the respective per centum shares which Spencer Township and the officers and employees shall contribute to the premium or charges arising under such annuity or pension contract and to further provide for the deduction of contributions from officers' and employees' compensation; to establish the time at which existing and future employees shall become eligible for such plan and to further establish the normal retirement date for all employees; to provide a method for non-coverage of an officer or employee of the annuity or pension plan; to set forth a date wherein each person covered under the annuity or pension plan shall have a vested right or interest in such plan; to ratify and confirm the validity of any annuity or pension plan in existence on the effective date of this Ordinance; and to replace all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1.**

This Ordinance shall be known and cited as the "Spencer Township Pension Plan Ordinance."

### **Section 2.**

Pursuant to Public Act 27 of 1960, as amended, the Township of Spencer hereby creates and establishes an annuity or pension plan and program for the pensioning of its officers and employees, and for such purposes, also hereby authorizes the Township Supervisor and the Township Clerk to contract, in the name of the Township, with any company authorized to transact such business within the State of Michigan for annuities or pensions.

### **Section 3.**

The annuity or pension plans created, established and contracted for under this Ordinance shall cover each person within the following classes of officers and employees:

- All members of the Township Board.
- Deputy supervisor, deputy clerk, deputy treasurer.

**Section 4.**

A. The Township of Spencer shall annually contribute according to the following schedule:

<b>Annual Compensation</b>	<b>Annual Contribution</b>
Under \$500	\$100
\$500 to \$999	\$200
\$1,000 to 1,499	\$300
\$1,500 to \$1,999	\$400
\$2,000 to \$2,499	\$500
\$2,500 to \$2,999	\$600
\$3,000 to \$3,499	\$700, etc.

For each increase in annual salary of \$499.99, the annual contribution will increase \$100. Township pays 100 percent of the premium.

Such contributions shall be secured from the general fund of the Township. Voluntary non-deductible or deductible contributions by persons within such class of officers or employees or anyone acting for the benefit of said individual, are not allowed.

B. Each employee who is employed on the effective date of the annuity or pension plan shall be eligible for coverage on that day provided he or she then meets the following requirements, otherwise to be eligible on the first policy anniversary on which he or she meets them:

1. He or she is employed as a member of the Township Board or deputy supervisor, deputy clerk or deputy treasurer.

2. His or her present age is at least 18 years and not more than 75 years.

Every employee who becomes subsequently employed shall be eligible on the first policy anniversary on which he or she meets the following requirements.

1. He or she is employed as a member of the Township Board or deputy supervisor, deputy clerk or deputy treasurer.

2. His or her present age is at least 18 years and not more than 75 years.

An employee's normal retirement date shall be the policy anniversary of the annuity or pension plan nearest his or her birthday.

C. Any person desiring not to be so covered shall give written notice to the Township Clerk that he desires not to be covered, and if the notice is received before the person has become covered under the contract, he shall not be covered thereunder. If the notice is received after the individual has become covered, his coverage under the contract shall cease as provided for in the contract.

**Section 5.**

Each person so covered under the annuity or pension plan shall have a vested right or interest in such plan immediately on the date the plan becomes effective for such person.

**Section 6.**

The Township of Spencer hereby ratifies and confirms the validity of any annuity or pension plan in existence on the effective date of this Ordinance.

**Section 7.**

This Ordinance shall take effect on the 11th day of January, 1989. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

## **DANGEROUS BUILDINGS ORDINANCE**

**(Ord. No. 3-50-23-89)**

An ordinance to protect the health, safety and welfare of the inhabitants of Spencer Township.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Unlawful Conduct.**

It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in Section 2.

### **Section 2. Definition.**

As used in this chapter, "dangerous building" means any building or structure which has any of the following defects or is in any of the following conditions:

A. Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the Township.

B. Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the building code of the Township for a new building or similar structure, purpose or location.

C. Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

D. Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the building code of the Township.

E. Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building portion thereof, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

F. Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

G. Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts.



H. Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within.

I. Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

**Section 3. Notice, Contents, Hearing Officer.**

A. When the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the enforcing agency shall issue a notice of the dangerous and unsafe condition.

B. Such notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment records.

C. The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

D. The hearing officer shall be appointed by the Township Supervisor to serve at his pleasure. The enforcing agency shall file a copy of the notice of the dangerous and unsafe conditions with the hearing officer.

E. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten days before the date of hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

**Section 4. Hearing, Testimony, Decision, Order, Nonappearance or Noncompliance, Review, Order to Show Cause, Costs.**

A. The hearing officer shall take testimony of the enforcing agency, the owner of the property and any interested party. The hearing officer shall render his decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

B. If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, he shall so order, fixing a time in the order for the owner, agent or lessee to comply therewith.

C. If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of his findings and a copy of his order with the legislative body of the Township and request that the necessary action be taken to demolish or otherwise make

safe the building or structure. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed in Section 3.

D. The legislative body of the Township shall fix a date for hearing, reviewing the findings and order of the hearing officer and shall give notice to the owner, agent or lessee in the manner prescribed in Section 3 of the time and place of the hearing. At the hearing the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the legislative body of the Township shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure.

E. The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the Township assessor who shall assess the cost against the property on which the building or structure is located.

F. The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the Township.

#### **Section 5. Judicial Review.**

An owner aggrieved by any final decision or order of the legislative body under Section 4 may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

#### **Section 6. Effective Date.**

This Ordinance shall take immediate effect on the 23rd day of March, 1989.

# CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE

## ORDINANCE NO. 19-03 (Replaces Ordinance No. 11-52-21-89)

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right and authority to construct, maintain and commercially use electric lines and related facilities including but not limited to towers, masts, poles, cross arms, guys, wires and transformers on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local electric business in the TOWNSHIP OF SPENCER, KENT COUNTY, MICHIGAN, for a period of thirty years.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Grant and Term.**

The Township of Spencer, Kent County, Michigan, hereby grants to Consumers Energy Company, its successors and assigns, hereinafter called "Consumers," the right and authority to towers, masts, poles, cross arms, guys, wires and transformers on, under, along, and across public places including but not limited to highways, streets, alleys, bridges, and waterways, and to conduct a local electric business in the Township of Spencer, Kent County, Michigan, for a period of thirty years.

### **Section 2. Conditions.**

No public place used by Consumers shall be obstructed longer than necessary during construction or repair, and shall be restored to the same order and condition as when work was commenced. All of Consumers' electric lines and related facilities shall be placed as not to unnecessarily interfere with the public's use of public places. Consumers shall have the right to trim or remove trees if necessary in the conducting of such business.

### **Section 3. Hold Harmless.**

Consumers shall save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the lines and related facilities hereby authorized. In case any action is commenced against the Township on account of the permission herein given, Consumers shall, upon notice, defend the Township and its representatives and hold them harmless from all loss, costs and damage arising out of such negligent construction and maintenance.

### **Section 4. Extensions.**

Consumers shall construct and extend its electric distribution system within said Township, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

**Section 5. Franchise Not Exclusive.**

The rights, power and authority herein granted are not exclusive.

**Section 6. Rates and Conditions.**

Consumers shall be entitled to provide electric service to the inhabitants of the Township at the rates and pursuant to the conditions as approved by the Michigan Public Service Commission. Such rates and conditions shall be subject to review and change upon petition to the Michigan Public Service Commission.

**Section 7. Revocation.**

The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by either party. Upon revocation this ordinance shall be considered repealed and of no effect past, present or future.

**Section 8. Michigan Public Service Commission Jurisdiction.**

Consumers remains subject to the reasonable rules and regulations of the Michigan Public Service Commission applicable to electric service in the Township and those rules and regulations preempt any term of any ordinance of the Township to the contrary.

**Section 9. Repealer.**

This ordinance, when enacted, shall repeal and supersede the provisions of any previous electric franchise ordinance adopted by the Township including any amendments.

**Section 10. Effective Date.**

This ordinance shall take effect upon the day after the date of publication thereof.

Adopted: July 16, 2019.

Effective: August 16, 2019.

# MICHIGAN CONSOLIDATED GAS FRANCHISE ORDINANCE

(Ord. No. 001-1991)

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section 1. Grant of Gas Franchise and Consent to Laying of Pipes, Etc.**

Subject to all the terms and conditions mentioned in this Ordinance, consent is hereby given to Michigan Consolidated Gas Company, a corporation organized under the laws of the State of Michigan (the "Company"), and to its successors and assigns, to lay, maintain, operate, and use gas pipes, mains, conductors, service pipes, and other necessary equipment in the highways, streets, alleys, and other public places in the Township of Spencer, Kent County, Michigan, and a franchise is hereby granted to the Company, its successors and assigns, to transact local business in said Township of Spencer, for the purposes of conveying gas into and through and supplying and selling gas in said Township and all other matters incidental thereto.

## **Section 2. Installation and Extension of System.**

If the provisions and conditions herein contained are accepted by the Company, as in Section 6 hereof provided, then within not more than one year following the later of the date upon which this Ordinance takes effect and the date upon which the Company receives such regulatory approval as may be necessary for the Company to convey gas to the Township of Spencer, and to construct and operate its facilities therein, the Company shall determine the area within the Township of Spencer to be served initially and commence the installation of a gas distribution system within such area, and the Company shall thereafter proceed to complete said initial installation as soon as reasonably practicable; provided, however, that the Company shall not be held responsible for delays due to weather or labor conditions, inability to procure necessary materials, or other causes beyond its control; and provided further that such initial installation and any extensions shall be subject to the main extension provisions, the area expansion program provisions (if and where applicable), and other applicable provisions now or from time to time hereafter contained in the Company's rules and regulations for gas service as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.

## **Section 3. Use of Streets and Other Public Places.**

The Company, its successors and assigns, shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within said Township and shall within a reasonable time after making an opening or excavation, repair the same and leave it in as good condition as before the opening or excavation was made. The Company, its successors and assigns, shall use due care in exercising the privileges herein contained and shall be liable to said Township for all damages and costs which may be recovered against said Township arising from the default, carelessness, or negligence of the Company or its officers, agents, and servants.

No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral mains except upon application to the Highway Commissioner or the Township Board, or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the Highway Commissioners or the

Township Board, or such other authority as may have jurisdiction, to issue a permit to the Company to do the work proposed.

**Section 4. Standards and Conditions of Service: Rules, Regulations and Rates.**

The Company is now under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for gas, and the standards and conditions of service and operation hereunder, shall be the same as set forth in the Company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the Company is now rendering gas service, or as shall hereafter be validly prescribed for the Township of Spencer, under the orders, rules, and regulations of the Michigan Public Service Commission or other authority having jurisdiction in the premises.

**Section 5. Successors and Assigns.**

The words "Michigan Consolidated Gas Company" and "the Company," wherever used herein, are intended and shall be held and construed to mean and include both Michigan Consolidated Gas Company and its successors and assigns, whether so expressed or not.

**Section 6. Effective Date; Term of Franchise Ordinance; Acceptance by Company.**

This Ordinance shall take effect the day following the date of publication thereof, which publication shall be made within 30 days after the date of its adoption, and shall continue in effect for a period of 30 years thereafter, subject to revocation at the will of the Township at any time during said 30-year period; provided, however, that when this Ordinance shall become effective the Township Clerk shall deliver to the Company a certified copy of the ordinance accompanied by written evidence of publication and recording thereof as required by law, and the Company shall, within 180 days after the date this Ordinance takes effect, file with the Township Clerk its written acceptance of the conditions and provisions hereof.

**Section 7. Effect and Interpretation of Ordinance.**

All ordinances and resolutions, and parts thereof, which conflict with any of the terms of this Ordinance are hereby rescinded. In the case of conflict between this Ordinance and any such ordinances or resolutions, this Ordinance shall control. The catch line headings which precede each section of this Ordinance are for convenience in reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of this Ordinance.

# **FIRE DEPARTMENT, DUTIES, REGULATIONS ORDINANCE**

**(Ord. No. 002-1992)**

An ordinance to provide that the Spencer Township Board may establish the Spencer Township Fire Department; establish jurisdiction and authority of the Township Board toward the Township Fire Department; and repeal any parts or portions of ordinances inconsistent herewith.

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section 1. Scope, Purpose and Intent.**

This Ordinance is adopted pursuant to the authority granted the Township Board under PA 33 of 1951. The purpose of this Ordinance is to provide that the Spencer Township Board shall hereby establish the Spencer Township Fire Department; to establish jurisdiction and authority of the Township Board over personnel selection; to establish authority to adopt rules and regulations for the conduct of personnel and maintenance of equipment; to employ and appoint a chief, firefighters and officers; and to prescribe the powers and duties of fire department volunteers and employees.

## **Section 2. Fire Department; Establishment, Funding, Powers and Duties.**

There is hereby established the Spencer Township Fire Department. The Township Board, acting by resolution, shall appoint such persons who, based on experience, training, and qualifications would, in its discretion, best perform the duties associated with providing fire protection to the citizens of Spencer Township.

The Township Board shall approve an annual appropriation for the operation and maintenance of the department and its equipment, and for that purpose shall have the authority to use general funds, to initiate the creation of a special assessment district and levy assessments, sell bonds, establish user fees, or raise revenues in any other manner provided for under law for the operation and maintenance of the department; it shall provide for payment of any debts incurred incidental to its continued operation; it shall purchase necessary equipment; and/or construct public buildings for uses incidental to the maintenance and operation of a fire department. The Township Board shall establish rules and regulations for the operation of the department and the care of the equipment.

## **Section 3. Chief, Duties.**

The Township Board shall appoint a chief who shall be the chief administrative officer of the department. The chief shall be accountable to the Township Board for the efficient and effective operation of the department, and for the department's compliance with all state laws, Township ordinances and policies. The chief shall serve at the pleasure of the Board.

The chief shall recommend, subject to Township Board approval, the appointment of an assistant chief, captain(s), lieutenant(s), engineers (drivers) and firefighters as may be deemed necessary.

The chief shall develop written administrative rules to increase the efficiency and effectiveness of the department, including pre-planning and post-incident critiques, regulations, assignment and scheduling of personnel, and shall plan for the long-range needs of the department.

The chief shall review all personnel and operating problems with and shall report monthly to the Township Board. A written report shall be filed annually with the Township Board.

As needed, the chief shall notify the Township Supervisor of major problems or issues that require Board action. When such problems must be resolved immediately and it is impractical or will endanger the health, safety or welfare of the Township to wait until the next Board meeting to resolve the issue, the Township Supervisor shall be empowered to resolve the issue or problem, subject to the subsequent approval of the Board.

The chief shall hold regular department informational and training meetings.

The chief may incur expenditures against the department budget as appropriated by the Township Board. The chief will monitor the unencumbered balances remaining in the department budget and shall make timely recommendations for budget amendments at such time as the need for such amendments become know. The department's expenditures shall not exceed the amounts appropriated. Capitol outlay purchases that exceed \$200 shall conform to Township policy regarding written quotes and competitive bidding.

The chief shall also be responsible for the following:

1. Supervise the extinguishment of all fires that endanger the health, safety and welfare of Spencer Township.
2. Enforce Township fire ordinances or fire prevention codes.
3. Ensure that all personnel are trained and qualified for the duties that they are expected to fulfill.
4. Ensure that fire inspection and community fire prevention programs are conducted.
5. Ensure that all buildings and equipment are properly maintained and in good working order.
6. Ensure that all department personnel comply with departmental and board rules, regulations and polices.

#### **Section 4. Officers.**

There shall be a chain of command established among the department officers in descending order of rank, from the chief to the assistant chief, captain(s), lieutenant(s), engineers, to firefighters. Each rank shall obey the orders of their superior officers. Temporary officers may be appointed by the senior officer present at any emergency to ensure the continuity of the chain of command. Such



temporary appointments shall terminate when the officer with the given responsibility becomes available.

The chief shall establish a job description for each rank. Each command officer shall be responsible that orders are carried out by subordinates.

### **Section 5. Firefighters.**

Applicants for vacant firefighter positions shall be of good character, possess a good driving record, and shall be screened by a physician of the Township Board's choice and at Township expense. The physician's examination shall determine if the applicant has any pre-existing physical conditions that would preclude the applicant from performing the duties associated with firefighting.

All firefighters shall serve an initial probationary period for a period of not less than six months. At the discretion of the chief or Township Board the probationary period may the conclusion of the minimum probationary period, the chief may recommend that a probationary firefighter, that has met all of the qualifications contained in the firefighter job description be given permanent firefighter status by the Township Board.

A probationary firefighter shall be entitled to all compensation and benefits afforded to permanent firefighters, but shall be restricted to perform only those duties for which he/she has been specifically trained. A probationary firefighter shall not be issued department insignia or badges. Use of emergency signal devices on the private vehicle of a probationary firefighter shall be at the chief's discretion.

### **Section 6. Disciplinary Procedure.**

Violations of any Township ordinances, board rules, department administrative regulations, or convictions of a felony shall subject any personnel involved to disciplinary proceedings. A violation shall be documented by the chief upon good cause shown, or when a violation occurs in his presence.

The chief shall provide a copy of the written reprimand to an alleged violator. The written reprimand shall state the rules that was allegedly violated, the nature of any disciplinary action taken, and the consequences of any further reoccurrences. Disciplinary action may range from a reprimand to a suspension, demotion or dismissal, or a combination of any of the above, depending on:

1. Seriousness of the violation.
2. Consequences to the safety of others by the violation.
3. Potential harm to the department or the Township.
4. Prior record of the individual.
5. The degree of wantonness, if any, of the act.

Any disciplinary action may be appealed to the Township Board, who shall affirm, deny, or modify the disciplinary action taken by the chief. The Township Board may, on its own initiative, bring charges against any fire department personnel. Disciplinary action initiated by the Township Board shall follow the above procedures, except that the responsibilities designated above to the chief shall be performed by the Township Board.

In addition to such administrative rules that may be promulgated by the chief, theft of Township property or other property at the scene of an emergency shall be cause for dismissal.

Firefighters shall not respond to emergencies, meetings or training sessions while under the influence of alcohol or any controlled substances.

### **Section 7. Compensation.**

Compensation to firefighters shall be in such amounts as may be determined from time to time by the Township Board. The department shall keep accurate records that indicate the amount of compensable time served by all personnel. The time records shall be submitted monthly to the Township Board for payment, and all such time slips shall be signed by the department personnel designated on the time slip.

### **Section 8. Public Contact.**

The fire chief, or his/her designee, may release facts regarding fires or other emergencies to the news media. All other personnel shall refer all media inquiries to the chief or the designee.

Members of the public will be allowed in the fire station only when accompanied by a member of the department.

The public will always be treated courteously and professionally by all department personnel.

### **Section 9. Emergency Responses.**

When responding to emergencies, all personnel will drive emergency vehicles with appropriate concern for the safety of the public and defensive driving. Use of emergency signals on vehicles shall be considered a request for the right-of-way from other drivers.

Use of emergency signal equipment shall be permitted only when the department has been officially dispatched to an emergency.

### **Section 10. Department Equipment.**

Protective gear shall be worn when engaged in firefighting in any enclosed structure, or outdoors when warranted.

Lost or damaged equipment shall be reported as soon as possible to an officer. Township property shall be disposed only with the prior approval of the Township Board. All department-issued equipment shall be returned to the chief by personnel leaving the department.

**Section 11. Use of Fire Station.**

Only Township-owned vehicles and equipment may be kept at the fire station. Department equipment shall not be borrowed for private use.

Private vehicles must be parked in designated area only.

Alcohol and controlled substances shall not be brought into the fire station.

**Section 12. Soliciting Donations.**

All fund raising activities shall have the prior approval of the Township Board, and all revenues solicited in the name of the fire department shall be deposited with the Township Treasurer. Such funds will be disbursed by the Township Board.

Any fund raising activities on behalf of the fire department, yet not solicited in the name of the Township or the fire department, shall be conducted by a tax-exempt organization that has been designated as a 501-c-3 charity by the Internal Revenue Service.

The personnel of the fire department are authorized to incorporate a tax-exempt charitable organization that shall be known as “The Spencer Township Firefighters Association.” The association shall be incorporated under the laws of the State of Michigan, with bylaws approved by the Township Board. The association may elect its own officers. The financial records of the association shall be audited annually by the Township Board.

**Section 13. Savings Clause.**

Should any portion of this Ordinance be declared unenforceable by any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect unaffected by the portion which might be so declared to be unenforceable.

**Section 14. Effective Date.**

This Ordinance shall take effect on \_\_\_\_\_, 1992. All ordinances in conflict herewith are hereby repealed.

**USE OF OFF-ROAD VEHICLES BY PERMANENTLY  
DISABLED PERSONS ORDINANCE**

**(Ord. No. 93-2)**

THE TOWNSHIP OF SPENCER ORDAINS:

**Section 1. Definitions.**

A. As used in this Ordinance, the term off-road vehicle and “ORV” shall have the meaning ascribed to the term “ORV” in Act 319 of the Public Acts of Michigan of 1975, as amended.

B. **Permanently Disabled Person.** As used in this Ordinance, the term “permanently disabled person” shall mean any person who has a medically determinable physical impairment which substantially limits one or more of that person’s major life activities and which has lasted or can be expected to last for a continuous period of not less than 12 months.

**Section 2. Use of ORVs on Public Highways and Streets.**

Notwithstanding any rules or regulations promulgated by the Kent County Road Commission, permanently disabled persons shall be permitted to operate ORVs upon county roads or highways within the Township of Spencer.

**Section 3. Relationship with other Laws and Ordinances.**

To the extent that this Ordinance conflicts with other ordinances of the Township of Spencer, the provisions of this Ordinance shall control.

**Section 4. Effective Date.**

This Ordinance shall become effective upon its publication or upon the publication of a summary of its provisions in a local newspaper of general circulation.

## **CABLE TELEVISION RATE ORDINANCE**

**(Ord. No. 93-6)**

An ordinance to adopt regulations concerning rates charged for basic cable television service within the Township; to establish procedures for the consideration and review of proposed basic cable television rates and to provide reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the Township; to provide for the making of decisions on rates for basic cable television service, to authorize public hearings and the notice thereof, and to authorize the adoption of rules and regulations for basic cable television service rate regulation proceedings; to provide for certain additional powers relating to cable television rate regulation; to establish remedies against cable television operators for failure of compliance with the ordinance; and to establish other provisions regarding the regulation of rates for basic cable television service within the Township, all in accordance with the Federal Communications Act, as amended, and applicable rules of the Federal Communications Commission.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Purpose of Ordinance.**

The purpose of this Ordinance is to adopt regulations consistent with the Federal Communications Act of 1934 as amended, the Cable Television Consumer Protection and Competition Act of 1992 and the rules of the Federal Communications Commission with respect to basic cable television service rate regulation. In addition, the purpose of this Ordinance is also to prescribe procedures so as to provide reasonable opportunity for consideration of the views of interested parties in connection with regulation by the Township of rates for basic cable television service. This Ordinance shall be implemented and interpreted consistent with the above stated statutes and applicable rules of the Federal Communications Commission.

### **Section 2. Definitions.**

For purposes of this Ordinance, the words and phrases listed in this section shall have the meanings stated below:

(a) “Act” means the Communications Act of 1934 as amended, and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, being U.S. Public Law 102-385, as it may be amended from time to time.

(b) “Associated equipment” means all equipment and services subject to regulation pursuant to 47 CFR § 76.923.

(c) “Basic cable television service” shall mean basic service as defined in the rules of the Federal Communications Commission and any other cable television service which is subject to rate

regulation by the Township pursuant to the Act and the rules of the Federal Communications Commission.

(d) “Cable television operator “ means an operator of basic cable television service as defined in the FCC Rules and the operator of any other cable television service which is subject to rate regulation by the Township pursuant to the Act and the rules of the Federal Communications Commission.

(e) “FCC” means the Federal Communications Commission.

(f) “FCC rules” means all rules of the FCC promulgated from time to time pursuant to the Act.

(g) “Increase in rates” means an increase in cable television rates or a decrease in cable television programming or a decrease in the customer services provided by a cable television operator.

(h) “Township” means the Township of Spencer, Kent County, Michigan.

All other words and phrases used in this Ordinance shall have the meanings as defined in the Act in the FCC rules.

### **Section 3. Regulation of Basic Cable Television Service.**

The Township may regulate the rates charged for basic cable television service within the Township, in accordance with this Ordinance and other applicable and Township ordinances. In the regulation of rates for basic cable television service and associated equipment, the Township shall follow all FCC Rules.

### **Section 4. Procedures; Filing of Rate Schedules; Submission of Information by Cable Television Operator.**

(a) The procedures under which the Township shall regulate the rates charged for basic cable television service within the Township shall be as set forth in this Ordinance.

(b) A cable television operator shall submit its schedule of rates for basic cable television service and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC rules. The cable television operator shall also submit with its proposed schedule of rates such information as may be necessary to demonstrate that its schedule of rates or its proposed increase in rates complies with the Act and the FCC rules. The cable television operator shall file ten copies of its schedule of rates or its proposed increase in rates with the Township Clerk. Such filing by the cable television operator shall be deemed to have been made when ten copies thereof have been received by the Township Clerk.

(c) By resolution or otherwise, the Township Board may adopt rules and regulations prescribing the information, data, calculations and other material which the Township requires to be included as a part of the filing of a schedule of rates or a proposed increase in rates by a cable television operator.

(d) In addition to information, data, calculations and other material required by rules and regulations of the Township, a cable television operator shall provide all other information requested by the Township Board in connection with the Township's review and regulation of existing rates for basic cable television service and associated equipment or a proposed increase in such rates. The Township Board may establish deadlines for submission of any requested information, data, calculations or other material, and the cable television operator shall comply with such deadlines.

(e) A cable television operator has the burden of proving that its schedule of rates or its proposed increase in rates for basic cable television service and associated equipment complies with the Act and the FCC rules, including, without limitation, 47 USC § 543 and 47 CFR §§ 76.922 and 76.923.

### **Section 5. Notice; Initial Review of Rates.**

Upon the filing of ten copies of the schedule of rates or a proposed increase of rates by the cable television operator, pursuant to this Ordinance, the Township Clerk shall publish a public notice in a newspaper of general circulation in the Township. The notice shall state that the filing has been received by the Township Clerk and (except those parts which may be withheld as proprietary under Section 6 hereof) is available for public inspection and copying; that interested parties are encouraged to submit written comments on the schedule of rates or proposed increase in rates, to the Township Clerk, not later than seven days after the public notice is published; and any other information deemed pertinent. The Township Clerk shall give notice to the cable television operator of the date, time and place of the meeting in which the Township Board shall first consider the schedule of rates or the proposed increase in rates. Such notice to the cable television operator shall be mailed by first-class mail at least three days prior to the meeting of the Township Board. If a written report by Township staff or a consultant of the Township, regarding the schedule of rates or the proposed increase in rates, has been prepared for consideration of the Township Board, then the Township Clerk shall mail a copy of the report by first-class mail to the cable television operator at least three days before the meeting at which the Township Board will first consider the schedule of rates or the proposed increase in rates.

### **Section 6. Proprietary Information.**

(a) If this Ordinance, any rules or regulations adopted by the Township pursuant to Section 4(b), or any request for information pursuant to Section 5 requires the production of proprietary information, the cable television operator shall produce such information. The cable television operator may request, however, that specific, clearly identified portions of its response be treated as confidential and be withheld from public disclosure, for the reason that such stated portions are proprietary. Such request must state the reasons why the information should be treated as proprietary and the facts supporting such reasons. The Township Board may grant the request for confidentiality of such information if the Board determines that the preponderance of the evidence shows that non-disclosure of such information is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552. The Township Clerk shall place in a file available for public inspection any written decision that results in information being withheld. If the cable television operator requests confidentiality of allegedly proprietary information, and such request is denied, the cable television operator may withdraw its proposal, in cases in which the cable operator is proposing a rate increase, and in that event the allegedly proprietary information shall be returned to

the cable television operator; alternatively, the cable television operator may seek review within five business days of the denial of such request for confidentiality, in any appropriate forum, and in that event the Township's release of such information shall be stayed, pending resolution of the review being sought.

(b) Any interested party may file with the Township Clerk a written request to inspect material withheld as proprietary. In responding to such request, the Township shall consider the policy considerations favoring non-disclosure and shall also consider the reasons cited for permitting inspection of the material, in relation to the facts of the particular case. Upon reaching a decision regarding whether withheld material shall then be disclosed, the Township shall promptly notify the requesting party and the cable television operator that submitted the information in question. The Township may grant, deny or grant with conditions any such request. The party requesting disclosure of such information or the cable television operator may seek review of the Township's decision by filing an appeal in any appropriate forum. Pending resolution of any such appeal, disclosure by the Township of such information or material shall be stayed.

(c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR § 0.459.

#### **Section 7. Effective Date of Rates; Order Tolling Effective Date of Rates.**

After a cable television operator has filed its existing schedule of rates or its proposed increase in rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under Section 5 of this Ordinance unless the Township Board (or other properly authorized body or official) tolls such 30-day period pursuant to 47 CFR § 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The Township Board may by such order toll the 30-day period for an additional 90 days in cases not involving cost-of-service showings or for an additional 150 days in cases involving cost-of-service showings.

#### **Section 8. Hearing on Basic Cable Service Rates Following Tolling of 30-Day Deadline; Public Notice.**

(a) If a written order has been issued pursuant to Section 7 of this Ordinance and 47 CFR 76.933 so as to toll the effective date of existing rates for basic cable television service and associated equipment or a proposed increase in such rates, the cable television operator shall submit to the Township any additional information required or requested pursuant to Section 4(d) of this Ordinance.

(b) In addition, the Township Board shall hold a public hearing to consider the comments of interested parties within the additional 90 day or 150 day, as the case may be.

(c) The Township Clerk shall publish a notice of the public hearing in a newspaper of general circulation within the Township. The notice shall state the date, time and place at which the hearing will be held; the fact that interested parties may appear in person, by agent or by letter at such hearing, in order to submit comments on or objections to the existing cable television rates or the proposed increase in rates; and that copies of the schedule of rates or the proposed increase in



rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the Township Clerk. Such notice shall be published not less than 15 days before the public hearing. In addition, the Township Clerk shall mail by first-class mail a copy of the public notice to the cable television operator not less than 15 days before the public hearing.

**Section 9. Report of Staff or Consultant; Written Response.**

Following the public hearing provided for in Section 8, the Township Board may cause a written report to be prepared for the Board by the Township's staff or consultants. The report may include a recommendation for a decision by the Township Board regarding cable television rates pursuant to Section 10. Such a report shall be based on the material and information filed by the cable television operator, the comments or objections of interested parties, information requested from the cable television operator, review or comment by Township staff or consultants and other appropriate information. If such a report is submitted, the Township Clerk shall mail a copy of it to the cable television operator by first-class mail not less than 20 days before the decision by Township Board under Section 10. The cable television operator may file with the Township Clerk a written response to the report. The Township Clerk shall forward the written response of the cable television operator to the Township Board, if the response is received by the clerk within ten days after the report is mailed by the cable television operator and at least ten copies of the response are submitted to the clerk.

**Section 10. Decision and Order on Rates.**

The Township Board shall issue an order, by resolution or otherwise, which in whole or in part, (1) approves the existing rates for basic cable television service and associated equipment or a proposed increase in such rates; (2) denies the existing basic cable television rates or proposed increase in such rates; (3) orders a reduction in the existing rates or in the proposed increase in rates; (4) prescribes a reasonable rate or reasonable increase in rates; (5) allows the existing cable television rates or proposed increase in rates to become effective subject to refunds; or (6) orders other appropriate relief; all in accordance with the FCC rules. If the Township Board issues an order allowing the existing basic television rates or proposed increase in rates to become effective subject to refund, the Township Board shall also direct the cable television operator to maintain an accounting pursuant to 47 CFR § 76.933. The order of the Township Board shall be issued within 90 days of the tolling order under Section 7 in all cases not involving cost of service showing. The order shall be issued within 150 days after the tolling order under Section 7 in all cases involving a cost of service showing.

**Section 11. Refunds; Notice.**

The Township Board may order a refund to cable television subscribers as provided in 47 CFR § 76.942. Before the Township Board orders a refund to subscribers, the Township Clerk shall give at least seven days written notice to the cable television operator by first-class mail of the date, time and place at which the Township Board shall consider issuing a refund order and shall provide an opportunity for the cable television operator to comment regarding the proposed refund. The cable television operator may appear in person, by agent, or by letter at such time, for the purpose of submitting comments to the Township Board.

**Section 12. Written Decisions; Public Notice.**

Any order of the Township Board pursuant to Section 10 or Section 11 shall be in writing, shall be effective upon adoption by the Township Board, and shall be deemed released to the public upon adoption. The Township Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the Township, which shall (1) summarize the written decision, and (2) state that copies of the text of the written decision are available for inspection or copying from the office of the Township Clerk. In addition, the Township Clerk shall mail a copy of the text of the written decision to the cable television operator by first-class mail.

**Section 13. Rules and Regulations.**

In addition to rules promulgated pursuant to Section 4, the Township Board may, by resolution or otherwise, adopt rules and regulations for basic cable television service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC rules.

**Section 14. Failure to Give Notice.**

The failure of the Township Board to give the notices or to mail copies of reports as required by this Ordinance shall not invalidate the decision or proceedings of the Township Board.

**Section 15. Additional Hearings.**

In addition to the requirements of this Ordinance, the Township Board may hold additional public hearings upon such reasonable notice as the Township Board, in its sole discretion, shall prescribe.

**Section 16. Additional Powers.**

The Township Board shall possess all powers conferred by the Act, the FCC Rules, the cable television operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC Rules, and this Ordinance shall be in addition to powers conferred by law or otherwise. The Township Board may take any action not prohibited by the Act and the FCC rules to protect the public interest in connection with basic cable television service rate regulation.

**Section 17. Failure to Comply; Remedies.**

The Township Board may pursue any and all legal and equitable remedies against the cable television operator (including, without limitation, all remedies provided under a cable television operator's franchise with the Township Board) for failure to comply with the Act, the FCC rules, any orders or determinations of the Township Board pursuant to this Ordinance, any requirements of this Ordinance, or any rules and regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC rules, any orders or determinations of the Township Board pursuant to this Ordinance, any requirements of this Ordinance, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable television operator's franchise.

**Section 18. Severability.**

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 19. Conflicting Provisions.**

In the event of any conflict between this Ordinance and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, then the provisions of this Ordinance shall control.

**Section 20. Effective Date.**

This Ordinance shall become effective upon its publication or upon the publication of a summary of its provisions in a local newspaper of general circulation within the Township.

## CONSTRUCTION BOARD OF APPEALS ORDINANCE

(Ord. No. 93-8)

An ordinance to establish the number of members of the Township Construction Board of Appeals, to establish the terms of such members, and to repeal a previous ordinance and for other purposes.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1.**

The Township of Spencer Construction Board of Appeals is hereby established.

### **Section 2.**

The Construction Board of Appeals shall consist of three members, appointed by the Township Board. Members of such Board shall be appointed for two-year terms and until their successors are appointed and qualified. The commencement of the terms of the members first appointed to the Board of Appeals may be as determined by resolution of the Township Board, so as to cause such commencement date to coincide with the commencement dates of the terms of other Township boards and commissions.

### **Section 3.**

A member of the Board of Appeals shall be qualified for such position by reason of experience or training in the performance of duties of members of the Board of Appeals. A member may be a resident of a municipality other than Spencer Township, if such member is also a member of the Construction Board of Appeals of another municipality.

### **Section 4.**

The Construction Board of Appeals shall have such powers and shall exercise such authority as are provided in the State Construction Code, Act No. 230 of the Public Acts of 1972 as amended, and other applicable laws and ordinances.

### **Section 5.**

Township of Spencer Ordinance No. 93-\_\_\_\_, adopted by the Township Board on September 21, 1993, is hereby repealed.

### **Section 6.**

This Ordinance shall become effective upon its publication or upon the publication of a summary of its provisions in a local newspaper of general circulation.

# HOUSING LAW OF MICHIGAN ORDINANCE

(Ord. No. 94-7)

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section 1.**

Pursuant to the provisions of Act 167 of the Public Acts of Michigan of 1917, as amended, being MCL 125.401, *et. seq.*, as amended, and in particular Section 1 thereof, being MCL 125.401, the Township of Spencer hereby adopts by reference the Housing Law of Michigan, including the enforcement provisions of said Act.

## **Section 2.**

The provisions of the Housing Law of Michigan, as adopted by this Ordinance, are in addition to the ordinances and laws now and hereafter enacted in the Township of Spencer.

## **Section 3.**

The Township Clerk is hereby directed to publish a copy of this Ordinance, or a summary thereof, in the *Greenville Daily News*, a newspaper circulated in the Township, as soon as possible within 30 days after adoption.

## **Section 4.**

This Ordinance shall take effect immediately after publication.

## ISSUANCE OF CITATIONS FOR CIVIL INFRACTIONS ORDINANCE

(Ord. No. 94-19; amended by Ord. Nos. 00-2 and 00-4)

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Township Supervisor.**

The Township Supervisor is authorized to issue citations for violation of any Township ordinance which is designated to be a municipal civil infraction if the supervisor has reasonable cause to believe an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed said infraction.

### **Section 2. Township Building Inspectors.**

The Township building official is authorized to issue citations for violations of those building codes which the official is responsible for administering and enforcing if the official has reasonable cause to believe an infraction has occurred, based upon personal observation or the report of a person who has allegedly witnessed said infraction.

### **Section 3. Township Fire Chief.**

The Township fire chief is authorized to issue citations for violation of the Township Open Burning Ordinance, being Ordinance No. 00-2, if the fire chief has reasonable cause to believe a violation has occurred, based upon personal observation or the report of a person who has allegedly witnessed said violation.

### **Section 4. Zoning Administrator.**

The Township Zoning Administrator is hereby authorized to issue citations for violation of the Township Zoning Ordinance, Junk and Inoperable Vehicles Ordinance, Trash Ordinance, Outdoor Assembly Ordinance, Dangerous Building Ordinance, and Open Burning Ordinance if the zoning administrator has reasonable cause to believe a violation has occurred, based upon personal observation or the report of a person who have allegedly witnessed said violation.

### **Section 5. Form of Citations.**

Citations shall be numbered consecutively and should be in a form approved by the state court administrator's office.

### **Section 6. Service.**

Citations shall be served upon the alleged violator as provided by law.

### **Section 7. Appearance.**

Citations shall require appearance at the district court within a reasonable time after the citation has been issued.

**Section 8. Procedure.**

The procedures for the admission or denial of responsibility, request for informal or formal hearings, and all other matters related to processing of citations for civil infractions shall be as provided by law.

**Section 9. Publication/Effective Date.**

This Ordinance shall take effect 30 days following publication of this Ordinance, or a summary thereof, as provided by law.

# EMERGENCY SERVICES CHARGES FOR TOXIC AND HAZARDOUS MATERIALS ORDINANCE

(Ord. No. 95-1)

An ordinance to establish charges for Township emergency services in connection with incidents involving hazardous or toxic materials; to provide methods for the collection of such charges; and to provide for other available remedies.

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section 1. Purpose.**

This Ordinance is adopted in order to provide for the payment or reimbursement to the Township of expenses resulting from the use of Township goods, equipment, monies and other resources in responding or otherwise acting in connection with an incident involving hazardous or toxic materials. In order to implement this Ordinance, and thus to protect the Township in such cases, the Township Board hereby authorizes the imposing of charges so as to recover the reasonable and actual costs incurred by the Township in responding to calls for assistance or in otherwise acting in connection with a spill or release of hazardous or toxic materials.

## **Section 2. Definitions.**

For purposes of this Ordinance, the following words and terms are defined as follows:

(a) “Hazardous or toxic materials” means any chemicals, gasses, solids, liquids, and any other materials or substances that pose a present or potential hazard to human health or safety or the environment.

(b) “Release” means any spill, leaking, discharging, emitting, dumping, leaching, emptying or disposing into the air, the ground, waters, or otherwise into the environment.

(c) “Responsible party” means any person, firm, corporation, association, partnership, governmental body, or any other legal entity that causes, contributes to, aids in the occurrence of, or is otherwise involved, whether knowingly, accidentally or otherwise, in a release of a hazardous or toxic material, whether actual or threatened, or is an owner, tenant, occupant or party in control, whether wholly or in part, of property onto which or from which a hazardous or toxic material is released.

## **Section 3. Imposition of Charges.**

Where the Township Fire Department or other parties or agencies of the Township government take action in connection with a release of hazardous or toxic materials, whether in response to a call for assistance or otherwise, the actual costs incurred by the Township in taking such action, and all actual costs relating thereto or arising therefrom, shall be imposed upon the responsible parties, whether jointly or severally, including but not limited to the following:



(a) One hundred twenty-five dollars per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to be utilized in responding to the hazardous or toxic materials incident.

(b) Seventy-five dollars per hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to the hazardous or toxic materials incident.

(c) Seventy-five dollars per hour, or fraction thereof, for each additional Township-owned fire department vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous or toxic materials incident.

(d) All personnel-related costs incurred by the Township as a result of responding to the hazardous or toxic materials incident. Such costs may include, but are not limited to, wages, salaries, and fringe benefits and insurance for full-time and part-time firefighters; overtime pay and related fringe benefit costs for hourly employees and fire-run fees paid to on-call firefighters. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous or toxic materials incident, and shall continue until all Township personnel have concluded hazardous or toxic materials incident-related responsibilities.

(e) Other expenses incurred by the Township in responding to the hazardous or toxic materials incident, including but not limited to rental or purchase of machinery, equipment, labor, consultants, legal and engineering fees, and the replacement costs related to disposable personal protective equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous or toxic materials incident.

(f) Charges to the Township imposed by any local, state or federal government entities related to the hazardous or toxic materials incident.

(g) Costs incurred in accounting for all hazardous or toxic materials incident-related expenditures, including billing and collection costs.

#### **Section 4. Billing Procedures.**

Following the conclusion of a hazardous or toxic materials incident, or at any other appropriate time, the Township fire chief shall submit a detailed listing of all known costs and expenses relating to or arising out of the incident to the Township Treasurer, who shall prepare an invoice directed to the responsible party or parties, demanding payment in full for all of such costs and expenses. Such invoice shall demand such payment within 30 days of the receipt of the invoice. Any additional costs and expenses that become known to the Township fire chief following the transmittal of the invoice shall be billed in the same manner upon subsequent invoices to the responsible party or parties. For any such amounts that remain unpaid after 30 days from the date of any invoices, the Township shall impose a late charge of 1 percent per month or fraction thereof, though in the discretion of the Township Board, such late charge or any part thereof may be waived for good cause shown.

**Section 5. Other Remedies.**

The Township may pursue any other remedy or may commence any appropriate action or proceeding in any court or before any administrative agency, toward the collection of the charges imposed under this Ordinance. The recovery of any such charges shall not limit the liability of the responsible parties under local ordinance or other laws, rules or regulations. In addition, the Township may commence and pursue criminal proceedings against the responsible parties as defined herein, to the extent permitted by law. The penalty for violation of this Ordinance shall, upon conviction, be a fine of up to \$500 or imprisonment for up to one year, or both such fine and imprisonment. Each day that violation of this Ordinance continues shall be a separate offense.

**Section 6. Severability.**

Should any part or provision of this Ordinance be declared invalid or unenforceable by any court of competent jurisdiction, such invalid or unenforceable part or provision shall not affect the validity or enforceability of the remainder of the Ordinance, if the remainder thereof can be given effect without such part or provision thus declared to be invalid or unenforceable.

**Section 7. Effective Date.**

This Ordinance shall become effective 30 days after publication of the ordinance or 30 days after publication of a summary of its provisions in a local newspaper of general circulation.

# LAND DIVISION ORDINANCE

(Ord. No. 97-10)

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Michigan Public Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section I. Title.**

This Ordinance shall be known and cited as the Spencer Township Land Division Ordinance.

## **Section II. Purpose.**

The purpose of this Ordinance is to carry out the provisions of the state Land Division Act (Michigan Public Act 288 of 1967, as amended (the "Act") formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of Spencer Township by establishing reasonable standards for prior review and approval of certain land divisions within Spencer Township.

## **Section III. Definitions.**

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

A. **Applicant.** A natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

B. **Division.** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the state Land Division Act. Division does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the state Land Division Act, or the requirements of other applicable local ordinances.

C. **Exempt Split or Exempt Division.** The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal

representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent.

D. **Forty Acres or the Equivalent.** Either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

E. **Governing Body.** The legislative body of the Spencer Township Board.

#### **Section IV. Prior Approval Requirements for Land Divisions.**

Any division of land, including any partitioning or splitting of land, within the Township which requires the approval of the Township in order to qualify as a land division under the state Land Division Act shall satisfy the requirements and the applicable provisions of this Ordinance; provided that the following shall be exempted from this requirement:

A. A parcel proposed for subdivision through a recorded plat pursuant to the state Land Division Act.

B. A lot in a recorded plat proposed to be divided in accordance with the state Land Division Act.

C. An exempt split as defined in this Ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the state Land Division Act.

#### **Section V. Application for Land Division Approval.**

An applicant shall file all of the following with the Spencer Township assessor, or other official designated by the governing body, for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

A. A completed application form on such written form as may be provided by Spencer Township, including any exhibits requested therein.

B. Proof of fee ownership, or an interest of ownership, in the land proposed to be divided, signed by the owner of such land.

C. A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.

D. Proof that all standards of the state Land Division Act and this Ordinance have been met.

E. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

F. A fee of \$100 to cover the costs of review of the application and administration of this Ordinance and the state Land Division Act.

**Section VI. Procedure for Review of Applications for Land Division Approval.**

A. The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this Ordinance's requirements and the state Land Division Act, and shall promptly notify the applicant of the decision, and if denied, the reasons for denial.

B. An application for a proposed land division shall not be considered filed with the Township, nor shall the time period stated in Section VI.A commence, until all of the requirements for an application for land division approval have been complied with.

C. Any person or entity aggrieved by the decision of the Township assessor or designee may, within 30 days of said decision appeal the decision in writing to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant of the date, time and place of said meeting and appellate hearing. The Township Board may affirm or reverse the decision of the assessor, in whole or in part, and its decision shall be final.

D. A decision approving a land division shall be effective for not more than 120 days after such approval by the assessor or, if appealed, by the Spencer Township Board, unless either of the following requirement is satisfied within such 120 day period:

1. A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s), shall be recorded with the county Register of Deeds and a true copy thereof, showing proof of such recording, shall be filed with the Spencer Township assessor; or

2. A survey accurately showing the resulting parcel(s) shall be recorded with the county Register of Deeds and a true copy thereof, showing proof of such recording, shall be filed with the Spencer Township assessor. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.

If neither paragraph 1 nor paragraph 2 is satisfied, such land division approval shall, without further action on the part of Spencer Township, be deemed revoked and of no further effect after the 120th day following such approval by the assessor or, if appealed, by the Spencer Township Board.

E. The Township assessor shall maintain an official record of all approved land divisions with all related supporting documentation.

F. Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

G. The Township and its officers and employees shall not be liable for approving a land division if building permits are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

**Section VII. Standards for Approval of Land Divisions.**

A proposed land division reviewable by Spencer Township shall be approved only upon satisfaction of all of the following:

- A. The application requirements of Section V.
- B. All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area and lot width requirements of Spencer Township’s Zoning Ordinance for the zoning district(s) in which the resulting parcels are located.
- C. Each resulting parcel shall have the depth to width ratio specified by the Township’s Zoning Ordinance for the zoning district(s) in which the resulting parcel is located. If the Township Zoning Ordinance does not specify a depth to width ratio, each resulting parcel which is ten acres or less in area shall have a depth which is not more than nine times the width of the parcel to provide compatibility standards with surrounding lands within Spencer Township. The width and depth of the resulting parcel shall be measured in the same manner provided by the Township Zoning Ordinance for the measuring of the minimum width and maximum depth of parcels.
- D. The proposed land division(s) comply with all requirements of this Ordinance and the state Land Division Act.
- E. The approval of a land division shall not, of itself, constitute an approval or permit required under other applicable Township ordinances.
- F. All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

**Section VIII. Consequences of Noncompliance with Land Division Approval Requirement.**

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance.

An unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in an action at law.

**Section IX. Severability.**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, such determination shall not affect any portion of this Ordinance other than said part or portion thereof.

**Section X. Penalties and Enforcement.**

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$500 for the first offense and not more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For the purpose of this section, a subsequent offense means a violation of this Ordinance committed by the same person or party within one year after a previous violation of the same provision of this Ordinance for which such person or party admitted responsibility or was determined by law to be responsible.

**Section XI. Repeal.**

All previous Land Division Ordinances affecting unplatted land divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision in any applicable zoning ordinances, building codes or other ordinances of the Township which shall remain in full force and effect notwithstanding any land division approval hereunder.

**Section XII. Effective Date.**

This Ordinance shall take effect 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.

**WOLVERINE POWER SUPPLY COOPERATIVE, INC.  
ELECTRIC FRANCHISE ORDINANCE**

**(Ord. No. 98-1)**

An ordinance, granting to Wolverine Power Supply Cooperative, Inc., its successors and assigns, the right, power and authority to construct, maintain, and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances and facilities on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do an electric business in the Township of Spencer, Kent County, Michigan, for a period of 30 years.

THE TOWNSHIP OF SPENCER ORDAINS:

**Section 1. Grant, Term.**

The Township of Spencer, Kent County, Michigan, hereby grants the right, power and authority to the Wolverine Power Supply Cooperative, Inc., a Michigan non-profit electric cooperative, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances and facilities, for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do an electric business in the Township of Spencer, Kent County, Michigan, for a period of thirty years.

**Section 2. Consideration.**

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

**Section 3. Conditions.**

All of Grantee's towers, masts and poles shall be neat and sightly, and so placed on either side of the highways, streets, alleys, bridges and waterways, as not to unnecessarily interfere with the use thereof for highway, street and alley purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways, streets and alleys and shall be done so as not to interfere with the use thereof, and when completed, the same shall be left in as good of condition as when work was commenced.

**Section 4. Hold Harmless.**

Said Grantee shall at all times keep and save the Township free and harmless from all loss, costs and expense to which it may be subject by reason of the careless, improper or negligent construction and maintenance of the structures hereby authorized. In case any action is commenced against the Township on account of the permission herein granted, said Grantee shall, upon notice,



defend the Township and save it free and harmless from all loss, cost and damage arising out of such careless, improper or negligent construction and maintenance.

**Section 5. Franchise Not Exclusive.**

The rights, power and authority herein granted, are not exclusive.

**Section 6. Revocation.**

The franchise granted by this Ordinance is subject to revocation upon 60 days written notice by the party desiring such revocation.

**Section 7. The Federal Energy Regulatory Commission and/or the Michigan Public Service Commission; Jurisdiction.**

Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Federal Energy Regulatory Commission and/or the Michigan Public Service Commission or its successors, applicable to electric service in said Township.

**Section 8. Effective Date.**

This Ordinance shall take effect upon the day after the date of publication thereof, provided, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Township Clerk. Upon acceptance and publication hereof, this Ordinance shall constitute a contract between said Township and said Grantee.

# **CURFEWS FOR MINORS ORDINANCE**

**(Ord. No. 00-1)**

An ordinance to adopt a general curfew for minors.

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section 1. Purpose.**

The purpose of this Ordinance is to: i) protect the health, safety and welfare of the general public through the reduction of juvenile violence and crime within the Township; ii) promote the health, safety and welfare of the Township's youngest citizens, persons under the age of 18, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, and to being victimized by older perpetrators of crime; and iii) foster and strengthen parental responsibility for children.

## **Section 2. Curfew for Children Under 12 Years Old.**

No minor under the age of 12 years shall loiter, idle or congregate in or on any public area, street, highway, alley or park between the hours of 10:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the minor, or where the minor is pursuing an errand or other legitimate business directed by his parent or guardian.

## **Section 3. Curfew for Minors Under 18 Years Old.**

No minor under the age of 18 years shall loiter, idle or congregate in or on any public area, street, highway, alley or park between the hours of 12:00 midnight and 6:00 a.m., unless the minor is accompanied by a parent or guardian, or some adult delegated by the parent or guardian to accompany the child, or where the minor is pursuing an errand or other legitimate business directed by his parent or guardian.

## **Section 4. Aiding Underage Children to Violate Law.**

No person 18 years of age or over shall assist, aid, abet, allow, permit or encourage any minor under the age of 18 years to violate the provisions of Sections 2 or 3 hereof.

## **Section 5. Emancipated Minors.**

The curfew imposed by Sections 2 and 3 of this Ordinance shall not apply to minors legally emancipated in accordance with Michigan law.

## **Section 6. Penalties.**

Violation of this Ordinance shall be a municipal civil infraction for which the fine shall be not less than \$50 nor more than \$100 for the first offense, and not less than \$100 nor more than \$500 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For purposes of this Ordinance, "subsequent offense"

means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

**Section 7. Effective Date.**

This Ordinance shall take effect 30 days following publication of the ordinance, or a summary thereof, as provided by law.

## **OPEN BURNING ORDINANCE**

**(Ord. No. 00-2; amended by Ord. No. 07-002;  
amended by Ordinance adopted April 4, 2019)**

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Purpose.**

Unregulated open burning poses a risk to the health, safety and welfare of the residents of Spencer Township. Open burning is a fire risk and may create hazardous by-products that can irritate eyes and lungs, obscure visibility, create odors and pose other health threats. This Ordinance is intended to reduce the adverse and potentially dangerous effect of unregulated open burning throughout the Township.

### **Section 2. Definitions.**

(a) “Construction and demolition waste” means building waste materials including, but not limited to, waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial, or industrial building or other structure.

(b) “Fire chief” shall refer to the duly appointed fire chief of Spencer Township.

(c) “Open burning” means any burning of any flammable material that is not done within a structure or building.

### **Section 3. Prohibition on Open Burning, Except by Permit.**

Except as permitted by Sections 6 and 7, the open burning of any material other than brush, wood or wood products is prohibited. Brush, wood, or wood products shall not include construction and demolition waste. The open burning of brush, wood or wood products shall only be conducted provided all of the following conditions are satisfied:

(a) An open burning permit is obtained from the Spencer Township Fire Department (the “Fire Department”).

(b) The open burning is conducted in accordance with all applicable state laws, including the Air Pollution Control Act (Act 348 of Public Acts of 1965), the Forest Fire Act (Act 329 of 1969), and the Solid Waste Management Act (Act 641 of 1978; Act 267 of 1990).

(c) The open burning is performed under the constant supervision of a responsible person, who must be 18 years of age or older.

(d) Open burning shall be permitted only between the hours of 8:00 a.m. and 12:00 a.m. (midnight).

(e) No open burning may take place within 25 feet of any building or other structure.

(f) Open burning is not permitted in the Lake Residential (LR) District; provided, however, that the burning of leaves only is permitted in the LR District from April 15 to May 15 and from October 15 to November 15 between the hours of 10:00 a.m. and 6:00 p.m. Any fire burning leaves during that time must be completely extinguished by 6:00 p.m. and must at all times burn hot, no smoldering fires are permitted. A burning permit is not required from the Fire Department for the limited leaf burning permitted by this subparagraph.

(g) Lake Residential Districts are prohibited from burning of anything in Burn Barrels or any receptacles at any time.

(h) Burning in Burn Barrels or any receptacles for any non-Lake Residential District; Public Act 102 of 2012 prohibits trash burning of household waste from a family dwelling with the exception of untreated paper. Trash that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials must not be burned as emissions release chemicals which pose a danger to human health and the environment. Homeowners that choose to burn trash that is not prohibited may do so in an approved container on their property as long as it does not violate any other local or state ordinances or regulations. An approved container is constructed of metal or masonry with a metal covering device with openings no larger than 5/8 inch.

#### **Section 4. Consideration of Open Burning Permit.**

(a) The fire chief, or an individual delegated the responsibility to issue open burning permits from the fire chief (the “delegate”), may impose reasonable conditions prior to granting approval for an open burning permit, including conditions relating to the time, location, duration, manner of burning and the quantity of material to be burned.

(b) Before issuing a permit, the fire chief or delegate shall take into consideration the physical characteristics of the land on which the fire is to be located, the weather conditions on the date of burning, the extent of possible air pollution, the number of permits already issued, the proximity of the proposed fire to any structure, whether the applicant has the necessary equipment to control the open burning, and other factors which may affect the health, safety and welfare of the people of Spencer Township.

(c) The fire chief or delegate may withdraw approval of a permit if open burning would be unsafe due to the particular circumstances of a request, including, but not limited to, unfavorable weather conditions. The fire chief or delegate may request verification of ownership, control or leasing of the property on which the open burning is to take place. An open burning permit shall not be valid for more than four days after issuance.

#### **Section 5. Exception for Fire Department Training Purposes.**

The Ordinance shall not apply to fires approved by the fire chief for the purpose of training firefighters.

**Section 6. Exception for Recreational (campfire) Fires.**

This ordinance shall not apply to open burning of unprocessed wood in a fire no larger than three feet by three feet, with flames no taller than three feet, which is attended at all times by a responsible adult over 18 years of age and extinguished immediately after use. Recreational (campfire) fires is burning of logs, sticks or limbs for the purpose of food preparations or recreation.

**Section 7. Exception for Agricultural Burning.**

This Ordinance shall not apply to the burning of brush, trees and crop fields consistent with regular and usual agricultural practices. Prior to conducting such burning the person intending to conduct agricultural burning must advise the Spencer Township Fire Department of the time, location and material to be burned.

**Section 8. Penalty.**

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense, and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages and expenses provided by law. For purposes of this Ordinance, “subsequent offense” means a violation of this Ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that a violation occurs shall constitute a separate offense.

**Section 9. Issuance of Citations.**

In addition to any other official authorized by ordinance, the Township Fire Chief, Deputy Fire Chief, or Zoning Administrator is authorized to issue citations for violation of this ordinance, if the Fire Chief, Deputy Fire Chief or Zoning Administrator has reasonable cause to believe a violation has occurred, based upon personal observation or the report of a person who has allegedly witnessed said violation.

**Section 10. Repeal.**

Ordinance No. 8-5-25-82 is hereby repealed as of the effective date of this Ordinance.

**Section 11. Effective Date**

This Ordinance shall take effect 30 days following publication of the Ordinance, or a summary thereof, as provided by law.

# RECOVERY OF EXPENSES FOR EMERGENCY RESPONSES ORDINANCE

(Ord. No. 01-01)

An ordinance to authorize the recovery of expenses for emergency responses.

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section 1. Purpose.**

An ordinance of the Township of Spencer, County of Kent, State of Michigan, to provide for the recovery of expenses of emergency responses for traffic arrests and accidents involving drivers under the influence of alcohol or drugs.

## **Section 2. Definitions.**

When used in the Ordinance, the following terms shall have the following meanings:

A. "Emergency response" shall mean providing, sending and/or utilizing fire fighting, emergency medical rescue and other services by the Township, or by a private individual or corporation operating at the request or direction of the Township, to an incident resulting in an accident involving a motor vehicle in which one or more of the drivers were operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance or the combined influence of an alcoholic beverage and controlled substance.

B. "Expense of an emergency response" shall mean direct and reasonable costs incurred by the Township of Spencer or the Spencer Fire Department, or by a private person or corporation operating at the request or direction of the Township or the Spencer Fire Department, when making an emergency response to the incident, including the costs of providing police, fire fighting, rescue and other services at the scene of the incident. These costs further include the salary and wages of all of the fire department, emergency rescue or other personnel responding to the accident or incident, including but not limited to the personnel of the Township of Spencer or the Spencer Fire Department. The costs also include all litigation, supervision and report preparation costs, costs for administration and provision of all chemical tests, urine tests, and all costs related to any prosecution of the person or persons responsible for the accident or incident.

## **Section 3. Liability for Expenses of an Emergency Response.**

A. **Person(s) Responsible.** Any person(s) is liable for the expenses of an emergency response if, while under the influence of an alcoholic beverage or controlled substance, or the combined influence of an alcoholic beverage and controlled substance, such person(s)' operation of a motor vehicle proximately causes any incident resulting in an emergency response.

B. **Presumptions.** For the purpose of this Ordinance, a person is under the influence of an alcoholic beverage or controlled substance, or the combined influences of an alcoholic beverage and controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with the caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor

vehicle while under the influence of an alcoholic beverage if a chemical analysis of his or her blood, urine or breath indicates that the amount of alcohol in his or her blood was in excess of 0.07 percent, or if the person is under the age of 21, the amount of alcohol in his or her blood was in excess of 0.01 percent.

C. **Charge Against Person(s).** The expense of an emergency response shall be a charge against the person liable for the expenses under this Ordinance. The charge constitutes a debt of that person and is collectable by the Township of Spencer for incurring these costs in the same manner as in the case of an obligation under a contract, expressed or implied.

D. **Cost Recovery Schedule.** The Township Board shall, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule shall be available to the public from the Township Clerk.

E. **Billing.** The Township Clerk, or his or her designee, may submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated under this Ordinance. The bill(s) shall require full payment in 30 days from the date of service.

F. **Failure to Pay – Procedure to Recover Costs.** Any failure by the person described in this Ordinance as liable for the expenses of an emergency response to pay the bill within 30 days of service shall be considered a default. In case of fault, the Township of Spencer may commence civil suit to recover the expenses and any costs allowed by law.

**Section 4. Civil Infraction.**

Violation of this Ordinance shall be deemed a civil infraction.

**Section 5. Publication/Effective Date.**

This Ordinance shall take effect 30 days following publication of the ordinance, or a summary thereof, as provided by law.



## STORM WATER ORDINANCE

(Ord. No. 02-03)

An ordinance to provide for the regulation and control of storm water runoff; to provide for storm water permits and the procedures and standards for the issuance thereof; to provide for payment or reimbursement of costs and expenses incurred by the Township associated with storm water permits and the consideration thereof; to establish standards and requirements for the protection of floodways and for the control of soil erosion and sedimentation; to adopt other provisions for the establishing, maintaining and protection of drains and drainageways; to provide regulations for the inspection, sampling and monitoring of storm water and other discharges; to establish performance and design standards for storm water management in specified zones of the Township; and to provide penalties for violations of the ordinance.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Article I. General.**

#### **Sec. 1.01 Statutory Authority and Title.**

This Ordinance is adopted in accordance with the Township Ordinance Act, as amended, being MCL 41.181, *et. seq.*; the Township and Village Public Improvement Act, as amended, being MCL 41.721, *et. seq.*; the Drain Code of 1956, as amended, being MCL 280.1, *et. seq.*; the Land Division Act, as amended, being MCL 560.1, *et. seq.*; the Revenue Bond Act, as amended, being MCL 141.101, *et. seq.*; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, *et. seq.*; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

This Ordinance shall be known and may be cited as the Township of Spencer Storm Water Ordinance.

#### **Sec. 1.02 Findings.**

The Township finds that:

- (1) Water bodies, roadways, structures, and other property within, and downstream of the Township are at times subjected to flooding.
- (2) Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the Township and the region.
- (3) Land development alters the hydrologic response of watersheds, resulting in increased storm water runoff rates and volumes, increased flooding, increased stream channel erosion, and increased sediment transport and deposition.

(4) Storm water runoff produced by land development contributes to increased quantities of water-borne pollutants.

(5) Increases of storm water runoff, soil erosion, and non-point source pollution have occurred as a result of land development, and cause deterioration of the water resources of the Township and downstream municipalities.

(6) Storm water runoff, soil erosion, and non-point source pollution, due to land development within the Township, have resulted in a deterioration of the water resources of the Township and downstream municipalities.

(7) Increased storm water runoff rates and volumes, and the sediments and pollutants associated with storm water runoff from future development projects within the Township will, absent reasonable regulation and control, adversely affect the Township's water bodies and water resources, and those of downstream municipalities.

(8) Storm water runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of storm water runoff from development.

(9) Adopting the standards, criteria and procedures contained in this Ordinance and implementing the same will address many of the deleterious effects of storm water runoff.

(10) Adopting these standards is necessary for the preservation of the public health, safety and welfare.

**Sec. 1.03. Purpose.**

It is the purpose of this Ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

(1) To reduce artificially induced flood damage.

(2) To minimize increased storm water runoff rates and volumes from identified new land development.

(3) To minimize the deterioration of existing watercourses, culverts and bridges, and other structures.

(4) To encourage water recharge into the ground where geologically favorable conditions exist.

(5) To prevent an increase in non-point source pollution.

(6) To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes.

(7) To minimize the impact of development upon stream bank and streambed stability.

(8) To reduce erosion from development or construction projects.

(9) To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.

(10) To reduce storm water runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands that were developed without storm water management controls meeting the purposes and standards of this Ordinance.

(11) To reduce the adverse impact of changing land use on water bodies and, to that end, this Ordinance establishes minimum standards to protect water bodies from degradation resulting from changing land use where there are insufficient storm water management controls.

#### **Sec. 1.04. Applicability, Exemptions and General Provisions.**

(1) This Ordinance shall apply to any development site which requires approval of a plat, a site development plan, building permit, or any other permit for work which will alter storm water drainage characteristics of the development site, provided, however, that this Ordinance shall not apply to the following:

(a) The installation or removal of individual mobile homes within a mobile home park. This exemption shall not be construed to apply to the construction, expansion, or modification of a mobile home park.

(b) Farm operations and buildings, except dwellings, directly related to farm operations. This exemption shall not apply to greenhouses and other similar structures.

(c) Plats with preliminary plat approval and other developments with final land use approval prior to the effective date of this Ordinance, where such approvals remain in effect.

#### **Sec. 1.05. Definitions.**

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context in which they are used specifically indicates otherwise:

(1) **Base Flood.** A flood having a 1 percent chance of being equaled or exceeded in any given year.

(2) **Base Flood Elevation.** The high water elevation of the Base Flood, commonly referred to as the “100-year flood elevation.”

(3) **Base Flood Plain.** The area inundated by the Base Flood.

(4) **Best Management Practices (BMPs).** A practice, or combination of practices and design criteria that comply with the Michigan Department of Environmental Quality’s Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this Ordinance (including, but not limited to minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the Township engineer, and, where appropriate, the standards of the Kent County Drain Commissioner.

(5) **Building Opening.** Any opening of a solid wall such as a window or door, through which floodwaters could penetrate.

(6) **Clean Water Act.** The Federal Water Pollution Control Act, 33 USC Sec 1251 *et. seq.*, as amended, and the applicable regulations promulgated thereunder.

(7) **Construction Site Storm Water Runoff.** Storm water runoff from a development site following an earth change.

(8) **Design Engineer.** Registered and licensed professional engineer responsible for the design of a drainage plan.

(9) **Detention.** A system which is designed to capture storm water and release it over a given period of time through an outlet structure at a controlled rate.

(10) **Developed or Development.** The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the Township's approval of a site plan, plat, site condominium, special land use, planned unit development, rezoning of land, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of Article II only, developed or development shall not include the actual construction of, or an addition, extension or modification to, an individual single family or a two family detached dwelling.

(11) **Developer.** Any person proposing or implementing the development of land.

(12) **Development Site.** Any land that is being or has been developed, or that a developer proposes for development.

(13) **Discharger.** Any person or entity who directly or indirectly discharges storm water from any property. Discharger also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this Ordinance.

(14) **Drain.** Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, *et. seq.*, other than an established county or intercounty drain.

(15) **Drainage.** The collection, conveyance, or discharge of ground water and/or surface water.

(16) **Drainageway.** The area within which surface water or ground water is carried from one part of a lot or parcel to another part of the lot or parcel or to adjacent land.

(17) **Earth Change.** Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.

(18) **EPA.** The United States Environmental Protection Agency.

(19) **Erosion.** The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

(20) **Exempted Discharges.** Discharges other than storm water as specified in Section 4.02 of this Ordinance.

(21) **Federal Emergency Management Agency (FEMA).** The agency of the federal government charged with emergency management.

(22) **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of water bodies or the unusual and rapid accumulation of surface water runoff from any source.

(23) **Floodplain.** Any land area subject to periodic flooding.

(24) **Flood-Proofing.** Any structural and/or non-structural additions, changes, or adjustments to structures or property that reduce or eliminate flood damage to land, or improvements utilities and structures.

(25) **Flood Protection Elevation (FPE).** The Base Flood Elevation plus one foot at any given location.

(26) **Floodway.** The channel of any watercourse and the adjacent land areas that must be reserved to carry and discharge a base flood without cumulatively increasing the water surface elevation more than one-tenth of a foot due to the loss of flood conveyance or storage.

(27) **Grading.** Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its excavated or filled condition.

(28) **Illicit Connection.** Any method or means for conveying an illicit discharge into water bodies or the Township's storm water system.

(29) **Illicit Discharge.** Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this Ordinance.

(30) **Impervious Surface.** Surface that does not allow storm water runoff to slowly percolate into the ground.

(31) **KCDC.** Kent County Drain Commissioner.

(32) **Lowest Floor.** The lowest floor or the lowest enclosed area (including a basement), but not including an unfinished or flood-resistant enclosure which is usable solely for parking of vehicles or building access.

(33) **MDEQ.** Michigan Department of Environmental Quality.

(34) **NPDES.** National Pollution Discharge Elimination System.

(35) **Overland Flow-way.** Surface area that conveys a concentrated flow of storm water runoff.

(36) **Person.** An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

(37) **Plan.** Written narratives, specifications, drawings, sketches, written standards, operating procedures, or any combination of these which contain information pursuant to this Ordinance.

(38) **Pollutant.** A substance discharged which includes, but is not limited to the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

(39) **Property Owner.** Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

(40) **Retention.** A system which is designed to capture storm water and contain it until it infiltrates the soil or evaporates.

(41) **Soil Erosion.** The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.

(42) **State of Michigan Water Quality Standards.** All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.

(43) **Storm Drain.** A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.

(44) **Storm Water Permit.** A permit issued pursuant to this Ordinance.

(45) **Storm Water Runoff.** The runoff and drainage of precipitation resulting from rainfall or snowmelt or other natural event or process.

(46) **Storm Water Runoff Facility.** The method, structure, area, system, or other equipment or measures which are designed to receive, control, store, or convey storm water.

(47) **Stream.** A river, stream or creek which may or may not be serving as a drain, or any other water body that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.

(48) **Township.** The Township of Spencer.

(49) **Water Body.** A river, lake, stream, creek or other watercourse or wetlands.

(50) **Watershed.** A region draining into a water body.

(51) **Wetlands.** Land characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life.

**Article II. Storm Water Permits.**

**Sec. 2.01. Permit Required.**

(1) A developer shall not engage in any development without first receiving a storm water permit from the Township pursuant to Section 2.02.

(2) The granting of a storm water permit shall authorize only such development for which the permit is required, subject to the terms of the permit, and it shall not be deemed to approve other development or other land use activities.

**Sec. 2.02. Storm Water Permit Review Procedures.**

The Township shall grant a storm water permit, which may impose terms and conditions in accordance with Section 2.09, and which shall be granted only upon compliance with each of the following requirements:

(1) The developer has submitted a drainage plan complying with Section 2.03.

(2) The drainage plan contains a description of an adequate, temporary storm water retention system to prevent construction site storm water runoff, satisfying the requirements of Section 2.05, and the developer has obtained a soil erosion permit, if necessary.

(3) One of the following conditions is satisfied:

(a) The developer provides:

(2) A permanent on-site storm water system sufficient to provide on-site detention of storm water runoff in a 25-year storm event, and

(3) A direct connection for all storm water runoff that will be discharged from and through the development site in a 100-year storm event; or

(a) The developer provides a permanent on-site storm water system with a restricted outlet designed to result in no net increase in storm water runoff volume or rate onto any adjacent property in a 100-year storm event.

(4) The developer has paid or deposited the storm water permit review fee pursuant to Section 2.04.

(5) The developer has paid or posted the applicable financial guarantee pursuant to Section 2.06.

(6) The developer provides all easements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance including, but not limited to, Section 7.02. All easements shall be acceptable to the Township in form and substance and shall be recorded with the Kent County Register of Deeds.

(7) The drainage plan is designed in conformity with the Township's design and performance standards for drains and storm water management systems, as set forth in Article VIII.

(8) All storm water runoff facilities shall be designed in accordance with the then-current BMPs.

(9) The developer provides the required maintenance agreement for routine, emergency, and long-term maintenance of all storm water runoff facilities and in compliance with the approved drainage plan and this Ordinance including, but not limited to, Section 7.03. The maintenance agreement shall be acceptable to the Township in form and substance and shall be recorded with the Kent County Register of Deeds.

**Sec. 2.03. Drainage Plan.**

The developer shall provide a drainage plan to the Township for review and approval by the Township. The drainage plan shall identify and contain all of the following:

(1) The location of the development site and water bodies that will receive storm water runoff.

(2) The existing and proposed topography of the development site, including the alignment and boundary of the natural drainage courses, with contours having a maximum interval of one foot (using USGS datum). The information shall be superimposed on the pertinent Kent County soil map.

(3) The development tributary area to each point of discharge from the development.

(4) Calculations for the final peak discharge rates.

(5) Calculations for any facility or structure size and configuration.

(6) A drawing showing all proposed storm water runoff facilities with existing and final grades.

(7) The sizes and locations of upstream and downstream culverts serving the major drainage routes flowing into and out of the development site. Any significant off-site and on-site drainage outlet restrictions other than culverts should be noted on the drainage map.

(8) An implementation plan for construction and inspection of all storm water runoff facilities necessary to the overall drainage plan, including a schedule of the estimated dates of completing construction of the storm water runoff facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the storm water runoff facilities are constructed in accordance with the approved drainage plan.



(9) A plan to ensure the effective control of construction site storm water runoff and sediment track-out onto roadways.

(10) Drawings, profiles, and specifications for the construction of the storm water runoff facilities reasonably necessary to ensure that storm water runoff will be drained, stored, or otherwise controlled in accordance with this Ordinance.

(11) A maintenance agreement, in form and substance acceptable to the Township, for ensuring maintenance of any privately-owned storm water runoff facilities. The maintenance agreement shall include the developer's written commitment to provide routine, emergency, and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved drainage plan, the agreement shall authorize the Township to maintain any on-site storm water runoff facility as reasonably necessary, at the developer's expense.

(12) The name of the engineering firm and the registered professional engineer that designed the drainage plan and that will inspect final construction of the storm water runoff facilities.

(13) All design information must be compatible for conversion to Grand Valley Regional Geographic Information System (REGIS).

(14) Any other information necessary for the Township to verify that the drainage plan complies with the Township's design and performance standards for drains and storm water management systems.

**Sec. 2.04. Storm Water Permit Review Fees.**

(1) All expenses and costs incurred by the Township directly associated with processing, reviewing and approving or denying a storm water permit application shall be paid (or reimbursed) to the Township from the funds in a separate escrow account established by the developer, as provided in subsection (2). The Township may draw funds from a developer's escrow account to reimburse the Township for out-of-pocket expenses incurred by the Township relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:

(a) Services of the Township attorney directly related to the application.

(b) Services of the Township engineer directly related to the application.

(c) Services of other independent contractors working for the Township which are directly related to the application.

(d) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.

(2) At the time a developer applies for a storm water permit, the developer shall deposit with the Township Clerk, as an escrow deposit, an initial amount as determined by resolution of the Township Board for such matters and shall provide additional amounts as requested by the

Township in such increments as are specified in said resolution. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final Township approval and acceptance of the development has occurred will be refunded to the developer with no interest to be paid on those funds. At no time prior to the Township's final decision on an application shall the balance in the escrow account fall below the required initial amount. If the funds in the account are reduced to less than the required initial amount, the developer shall deposit into the account an additional amount as determined by Township Board resolution, before the application review process will be continued. Additional amounts may be required to be placed in the escrow account by the developer, at the discretion of the Township.

**Sec. 2.05. Construction Site Runoff Controls.**

Prior to making any earth change on a development site regulated by this Ordinance, the developer shall first obtain a soil erosion permit issued in accordance with Part 91 of Act No. 451 of the Public Acts of 1994, as amended, if one is required. The developer shall install storm water runoff facilities and shall phase the development activities so as to prevent construction site storm water runoff and off-site sedimentation. During all construction activities on the development site, the Township engineer may inspect the development site to ensure compliance with the approved construction site runoff controls.

**Sec. 2.06. Financial Guarantee.**

(1) The Township engineer shall not approve a storm water permit until the developer submits to the Township, in a form and amount satisfactory to the Township, a letter of credit or other financial guarantee for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved drainage plan. Upon certification by a registered professional engineer that the storm water runoff facilities have been completed in accordance with the approved drainage plan including, but not limited to, the provisions contained in Section 2.03(8), the Township may release the letter of credit, or other financial guarantee subject to final Township acceptance and approval.

(2) Except as provided in subsection (3), the amount of the financial guarantee shall be \$10,000, unless the Township determines that a greater amount is appropriate, in which case the basis for such determination shall be provided to the developer in writing. In determining whether an amount greater than \$10,000 is appropriate, the Township shall consider the size and type of the development, the size and type of the on-site storm water system, and the nature of the off-site storm water runoff facilities the development will utilize.

(3) The Township may reduce or waive the amount of the financial guarantee for a development that will not increase the percentage of impervious surface of the development site by more than 10 percent.

(4) This Ordinance shall not be construed or interpreted as relieving a developer of its obligation to pay all costs associated with on-site private storm water runoff facilities as well as those costs arising from the need to make other drainage improvements in order to reduce a development's impact on a drain consistent with adopted design standards.

**Sec. 2.07. Certificate of Occupancy.**

No certificate of occupancy shall be issued until storm water runoff facilities have been completed in accordance with the approved drainage plan; provided, however, the Township may issue a certificate of occupancy if an acceptable letter of credit or other financial guarantee has been submitted to the Township, for the timely and satisfactory construction of all storm water runoff facilities and site grading in accordance with the approved drainage plan.

**Sec. 2.08. No Change in Approved Facilities.**

Storm water runoff facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved drainage plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved drainage plan, or in accordance with approved amendments or revisions in the plan.

**Sec. 2.09. Terms and Conditions of Permits.**

In granting a storm water permit, the Township may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this Ordinance. A developer shall comply with such terms and conditions.

**Article III. Storm Water System, Floodplain and Other Standards, Soil Erosion Control.**

**Sec. 3.01. Management of and Responsibility for Storm Water System.**

The Township is not responsible for providing drainage facilities on private property for the management of storm water on said property. It shall be the responsibility of the property owner to provide for, and maintain, private storm water runoff facilities serving the property and to prevent or correct the accumulation of debris that interferes with the drainage function of a water body.

**Sec. 3.02. Storm Water System.**

All storm water runoff facilities shall be constructed and maintained in accordance with all applicable federal, state and local ordinances, and rules and regulations.

**Sec. 3.03. Storm Water Discharge Rates and Volumes.**

The Township is authorized to establish minimum design standards for storm water discharge release rates and to require dischargers to implement on-site retention, detention or other methods necessary to control the rate and volume of surface water runoff discharged into the storm water drainage system, in the following circumstances:

(1) A parcel of land is being developed in a manner that increases the impervious surface area of the parcel; or

(2) The discharge exceeds the Township-calculated pre-development discharge characteristics for the subject property, and the Township determines that the discharge is a violation of the drainage, flooding or soil erosion regulations of this Ordinance.

**Sec. 3.04. Floodplain Standards.**

(1) All new buildings and substantial improvements to existing buildings shall be protected from flood damage up to the Flood Protection Elevation (FPE) and shall be in accordance with all applicable federal, state and local ordinances, and rules and regulations. Floodway alteration shall be permitted only upon review and approval by the Township, in accordance with an approved drainage plan.

(2) A drainage plan providing for the filling or alteration of a floodway may include provisions for maintaining stability of the banks of streams or other water bodies, by means of the establishing of buffer zones and other means of providing protection of the slopes and banks of water bodies.

(3) Within any required buffer zone, no earth change shall take place except in accordance with the approved drainage plan. Such a plan may also include provisions for the replacement of flood plain storage volume, where such storage volume is lost or diminished as a result of approved development.

**Sec. 3.05. Soil Erosion and Sedimentation Control.**

(1) All persons who cause, in whole or in part, any earth change to occur shall provide soil erosion and sedimentation control so as to adequately prevent soils from being eroded and discharged or deposited onto adjacent properties or into a storm water drainage system, a public street or right-of-way, wetland, creek, stream, water body, or floodplain. All development shall be in accordance with all applicable federal, state and local ordinances, rules and regulations.

(2) During any earth change which exposes soil to an increased risk of erosion or sediment track-out, the property owner and other persons causing or participating in the earth change shall do the following:

- (a) Comply with the storm water management standards of this Ordinance.
- (b) Obtain and comply with the terms of a soil erosion and sedimentation control permit if required by law.
- (c) Prevent damage to any public utilities or services within the limits of grading and within any routes of travel or areas of work of construction equipment.
- (d) Prevent damage to or impairment of any water body on or near the location of the earth change or affected thereby.
- (e) Prevent damage to adjacent or nearby land.
- (f) Apply for all required approvals or permits prior to the commencement of work.
- (g) Proceed with the proposed work only in accordance with the approved plans and in compliance with this Ordinance.

(h) Maintain all required soil erosion and sedimentation control measures, including but not limited to, measures required for compliance with the terms of this Ordinance.

(i) Promptly remove all soil, sediment, debris, or other materials applied, dumped, tracked, or otherwise deposited on any lands, public streets, sidewalks, or other public ways or facilities, including catch basins, storm sewers, ditches, drainage swales, or water bodies. Removal of all such soil, sediment, debris or other materials within 24 hours shall be considered prima facie compliance with this requirement, unless such materials present an immediate hazard to public health and safety.

(j) Refrain from grading lands at locations near or adjoining lands, public streets, sidewalks, alleys, or other public or private property without providing adequate support or other measures so as to protect such other lands, streets, sidewalks or other property from settling, cracking or sustaining other damage.

(k) Request and obtain inspection of soil erosion and sedimentation control facilities, by the Township at such frequency as required by the Township.

**Sec. 3.06. Building Openings.**

(1) No building opening shall be constructed below the following elevations:

(a) One foot above the 100-year floodplain.

(b) The building opening established at the time of plat or development approval and on file in the Township Engineering Department.

(c) Three feet above the top of any downstream culvert.

(d) Four feet above the bottom of any permanent and defined drain.

(2) A waiver from elevations stated in Section 3.05(1) may be granted by the Township engineer following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation does not pose a risk of flooding.

(3) Upon completion of construction of the structure's foundation and or slab on grade, a registered land surveyor shall certify any minimum building opening elevation specified by this Ordinance. This certificate shall attest that the building opening elevation complies with the standards of this Ordinance. The permittee for the building permit shall submit the certificate to the Township building inspections official prior to the commencement of framing and/or structural steel placement. If the surveyor should find that the minimum building opening elevation is below the elevation specified in Section 3.06(1)(b) or (c), that opening must be raised using a method that meets with the approval of the Township. After reconstruction, a registered land surveyor or engineer shall re-certify that the minimum building opening elevation complies with the standards of this Ordinance prior to the commencement of framing and or structural steel placement.

**Sec. 3.07. Health, Safety and Welfare.**

Protection of the public health, safety and welfare shall be a primary consideration in the design of all storm water runoff facilities.

**Article IV. Prohibitions and Exemptions.**

**Sec. 4.01. Prohibited Discharges.**

(1) No person shall discharge to a water body, directly or indirectly, any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with best management practices.

(2) The Township is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the Township's storm water drainage system.

**Sec. 4.02. Exempted Discharges.**

The following non-storm water discharges shall be permissible, provided that they do not result in a violation of State of Michigan water quality standards:

- Water supply line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground water
- Uncontaminated ground water infiltration to storm drains
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Individual residential car washing
- Dechlorinated swimming pool water
- Street washwater
- Discharges or flows from emergency fire fighting activities
- Discharges for which a specific federal or state permit has been issued.

**Sec. 4.03. Interference with Natural or Artificial Drains.**

(1) It shall be unlawful for any person to stop, fill, dam, confine, pave, alter the course of, or otherwise interfere with any natural or constructed drain, or drainageway without first submitting a drainage plan to the Township and receiving approval of that plan. Any deviation from the approved plan is a violation of this Ordinance. This section shall not prohibit, however, necessary emergency action so as to prevent or mitigate drainage that would be injurious to the environment, the public health, safety, or welfare.

(2) No filling, blocking, fencing or above-surface vegetation planting shall take place within a floodway.

(3) For an overland flow-way:

(a) Silt screen fences shall not be permitted below the top of the bank of a water body.

(b) Chain link fences shall be permitted if the Township determines that the fence will not obstruct or divert the flow of water.

(c) If a fence is removed by the Township for drain access or drain maintenance, the fence shall be replaced by the owner of the fence at the owner's expense.

(d) No shrubs or trees shall be planted below the top of the bank of a water body.

(4) Shrubs, trees or other above-ground vegetation shall not be planted over the top of an underground storm sewer or over the top of the easement within which the storm sewer has been installed.

**Sec. 4.04. Storage of Hazardous or Toxic Materials in Drainageway.**

Except as permitted by law, it shall be unlawful for any person to store or stockpile within a drainageway any hazardous or toxic materials unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a drainageway.

**Article V. Inspection, Monitoring, Reporting, and Recordkeeping.**

**Sec. 5.01. Inspection and Sampling.**

To assure compliance with the standards in this pervasively regulated area, the Township may inspect and/or obtain storm water samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this Ordinance. Upon request, the discharger shall allow the Township's properly identified representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The Township shall provide the discharger reasonable advance notice of such inspection and/or sampling. The Township or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection.

**Sec. 5.02. Storm Water Monitoring Facilities.**

A discharger of storm water runoff shall provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility, when directed in writing to do so by the Township. The Township may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling and flow measurement of discharges in order to determine whether adverse effects from or as a result of such discharges may occur. All such equipment and devices for the inspection, sampling and flow measurement of

discharges shall be installed and maintained in accordance with applicable laws, ordinances and regulations.

**Sec. 5.03. Accidental Discharges.**

(1) Any discharger who accidentally discharges into a water body any substance other than storm water or an exempted discharge shall immediately inform the Township concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the Township within five days. The written report shall specify:

(a) The composition of the discharge and the cause thereof.

(b) The exact date, time, and estimated volume of the discharge.

(c) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.

(d) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.

(2) A properly-reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this Ordinance against a discharger for such discharge. It shall not, however, be a defense to a legal action brought to obtain an injunction, to obtain recovery of costs or to obtain other relief as a result of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of Section 5.03(1).

**Sec. 5.04. Record Keeping Requirement.**

Any person subject to this Ordinance shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence and records, including records on magnetic or electronic media and any and all summaries of such records, relating to monitoring, sampling and chemical analysis of any discharge or storm water runoff from any property.

**Article VI. Enforcement.**

**Sec. 6.01. Sanctions for Violation.**

(1) Any person violating any provision of this Ordinance shall be responsible for a municipal civil infraction and subject to a fine of not less than \$100 nor more than \$500 for a first offense, and not less than \$500 nor more than \$1,000 for subsequent offenses, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including, without limitation, equitable relief; provided, however, that the violation stated in Section 6.01(2) shall be a misdemeanor. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in



addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible.

The Township Supervisor or the Township enforcement officer are authorized to issue municipal civil infraction citations to any person alleged to be violating any provision of this Ordinance.

(2) Any person who neglects or fails to comply with a stop work order issued under Section 6.02 shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisonment in the county jail for not more than 93 days, or both such fine and imprisonment, and such person shall also pay such costs as may be imposed in the discretion of the court.

(3) Any person who aids or abets a person in a violation of this Ordinance shall be subject to the sanctions provided in this section.

**Sec. 6.02. Stop Work Order.**

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this Ordinance, the Township is authorized to issue a stop work order so as to prevent further or continuing violations or adverse effects. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. The Township may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this Ordinance or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

**Sec. 6.03. Failure to Comply; Completion.**

In addition to any other remedies, should any owner fail to comply with the provisions of this Ordinance, the Township may, after the giving of reasonable notice and opportunity for compliance, have the necessary work done, and the owner shall be obligated to promptly reimburse the Township for all costs of such work.

**Sec. 6.04. Emergency Measures.**

When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, and/or to prevent loss of life, injury or damage to property, the Township is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this Ordinance, and shall promptly reimburse the Township for all of such costs.

**Sec. 6.05. Cost Recovery for Damage to Storm Drain System.**

A discharger shall be liable for all costs incurred by the Township as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this Ordinance. Costs include, but are not limited to, those penalties levied by the EPA or MDEQ for violation of an NPDES permit, attorney fees, and other costs and expenses.

**Sec. 6.06. Collection of Costs; Lien.**

Costs incurred by the Township and the Drain Commissioner pursuant to Sections 6.02, 6.03, 6.04 and 6.05 shall be a lien on the premises which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the Township Treasurer who shall enter the lien on the next tax roll against the premises and the costs shall be collected and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Township or the Drain Commissioner shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

**Sec. 6.07. Appeals.**

Any person as to whom any provision of this Ordinance has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Township Board the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Township Board shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Township Board may consider the recommendations of the Township engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the Township may grant a variance from the terms of this Ordinance so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

(1) The application of the ordinance provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the ordinance; and

(2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this Ordinance, nor result in less effective management of storm water runoff.

## **Article VII. Storm Water Easements and Maintenance Agreements.**

### **Sec. 7.01. Applicability of Requirements.**

The requirements of this article concerning storm water easements and maintenance agreements shall apply to all persons required to submit a drainage plan to the Township for review and approval.

### **Sec. 7.02. Storm Water Management Easements.**

The developer shall provide all storm water management easements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance in form and substance required by the Township and shall record such easements as directed by the Township. The easements shall assure access for proper inspection and maintenance of storm water runoff facilities and shall provide adequate emergency overland flow-ways.

### **Sec. 7.03. Maintenance Agreements.**

The developer shall provide all storm water maintenance agreements necessary to implement the approved drainage plan and to otherwise comply with this Ordinance in form and substance as required by the Township, and shall record such agreements as directed by the Township. The maintenance agreements shall, among other matters, assure access for proper inspection and maintenance of storm water runoff facilities and adequate emergency overland flow-ways.

### **Sec. 7.04. Establishment of County Drains.**

Prior to final approval, all storm water management facilities for platted subdivisions shall be established as county drains, as authorized in Section 433, Chapter 18 of the Michigan Drain Code (P.A. 40 of 1956, as amended) for long-term maintenance.

## **Article VIII. Performance and Design Standards,**

### **Sec. 8.01. Performance Standards.**

In order to achieve the goals and purposes of this Ordinance, the following three storm water management zones (Zones A, B and C) are hereby established. The Zones are shown on the map attached as Appendix A and made a part of this Ordinance.

(1) Zone A represents areas which require the most protective storm water management regulations. The goal of this zone is to preserve the natural condition of water bodies included in it, in whole or in part. Zone A has, in general, little impervious surface area and few storm water facilities. In this zone, when site conditions permit, infiltration of storm water runoff shall be required, rather than the directed flow of storm water runoff into water bodies. This storm water management practice provides greater protection for surface water quality, and also assists in augmenting stream base flow, reduction of flash storm flows and prevention of stream bank erosion. Section 8.02 specifies design criteria for Zone A, in order that the volume and rate of storm water runoff are controlled at predevelopment levels.

(2) Zone B represents developed areas that have significant impervious surfaces and storm water runoff facilities in place. The goal of Zone B is the control of storm water runoff in order to prevent further destabilizing of streams and other water bodies. In this zone, the use of detention ponds, the maintenance and enhancement of buffer strips and other measures to reduce directly-connected impervious areas are specified in Section 8.02 for the achieving of the storm water management standards applicable to Zone B. The management practices for this zone are intended to maintain existing water quality and to alleviate adverse downstream impact on water bodies.

(3) Zone C consists of highly urbanized areas, or areas where there has been significant modification of drainageways. The amount of impervious surface area in Zone C is generally greater than 25 percent. Among the measures required in Zone C, as stated in Section 8.02, are the use of sediment basins, the maintenance and enhancement of buffer strips along water bodies and the reduction of impervious surface areas that are directly connected to water bodies. An important element of storm water management practice in Zone C is the control and prevention of sedimentation, in order to reduce pollution of water bodies.

**Sec. 8.02. Design Standards.**

The design standards for storm water runoff facilities for Zones A, B and C, as described in Section 8.01, are the following:

	<b>Zone A</b>	<b>Zone B</b>	<b>Zone C</b>
<b>Criteria</b>	High quality waters. Meets water quality standards. Less than 10% imperviousness.	Degraded physical, biological, or water quality indicators. 10% to 25% imperviousness.	Heavily degraded physical, biological, or water quality indicators. Greater than 25% imperviousness.
<b>Storm Water Management Standards</b>	Use infiltration basins, infiltration trenches, extended detention basins, and/or constructed wetlands. Maintain and enhance buffer strips.	Use detention ponds; maintain and enhance buffer strips, and reduce directly connected impervious area.	Use sediment basins, maintain and enhance buffer strips, and reduce directly connected impervious area.
<b>Water Quality Control</b>	Detain the first 0.5" of runoff from the contributing watershed, with detention per Zone B and infiltration where conditions permit, or provide equivalent treatment.	Detain the first 0.5" of runoff from the contributing watershed for 24 hours or provide equivalent treatment.	Provide sedimentation control within the drainage system.
<b>Bank Erosion Control</b>	Rate of release shall be limited to 0.05 cfs/acre for a 2-year storm event.	None.	Storm water runoff shall not exceed the capacity of the downstream conveyance system.
<b>Flood Control</b>	Detention with infiltration when conditions permit. Release rate of 0.13 cfs/acre per KCDC rules.	Release rate of 0.13 cfs/acre per KCDC rules.	Direct conveyance of storm water runoff within the capacity of downstream system.

**Sec. 8.03. Resolution to Implement Performance and Design Standards.**

The Township Board of the Township may adopt a resolution establishing more detailed design and performance standards for storm water runoff facilities, consistent with the terms of this Ordinance, and in order to further implement its goals and purposes.

**Article IX. Other Matters.**

**Sec. 9.01. Interpretation.**

Words and phrases in this Ordinance shall be construed according to their common and accepted meanings, except that words and phrases defined in Section 1.05 shall be construed according to the respective definitions given in that section. Technical words and technical phrases that are not defined in this Ordinance but which have acquired particular meanings in law or in technical usage shall be construed according to such meanings.

**Sec. 9.02. Catch-Line Headings.**

The catch-line headings of the articles and sections of this Ordinance are intended for convenience only, and shall not be construed as affecting the meaning or interpretation of the text of the articles or sections to which they may refer.

**Sec. 9.03. Severability.**

The provisions of this Ordinance are hereby declared to be severable, and if any part or provision of this Ordinance should be declared invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect any other part or provision of the ordinance.

**Sec. 9.04. Other Ordinances.**

This Ordinance shall be in addition to other ordinances of the Township, and shall not be deemed to repeal or replace other ordinances or parts thereof except to the extent that such repeal is specifically provided for in this article.

**Sec. 9.05. Effective Date.**

This Ordinance was adopted February 18, 2003, by the Township Board.

This Ordinance shall become effective April 5, 2003, following its publication or following the publication of a summary of its provisions in a local newspaper of general circulation.

## **ADULT USE ORDINANCE**

**(Ord. No. 04-03)**

An ordinance to prohibit the display of public nudity in Spencer Township.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Public Nudity Prohibited.**

No person shall engage in public nudity. No business establishment shall permit persons to engage in public nudity. For purposes of this Ordinance, the term “business establishment” shall include, but not be limited to, owners, officers, employees, and other persons in charge of or in control of a business premises or any part thereof.

### **Section 2. Public Nudity Defined.**

As used herein “public nudity” means knowingly or intentionally displaying to another person(s) any individual’s genitals, pubic area or anus with less than a fully opaque covering, or a female individual’s breast with less than a fully opaque covering of the nipple or areola: (1) in a public place; or (2) for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee. Public nudity does not include a woman’s breast feeding of a baby, whether or not the nipple or areola is exposed during or incidental to the breast feeding.

### **Section 3. Public Place Defined.**

As used herein, “public place” means any premises which are open to the general public or any business, club, association, lodge, fraternal organization or other association, group or entity.

### **Section 4. Public Nudity Declared a Nuisance.**

Any premises in which public nudity is offered, promoted, allowed or encouraged shall constitute a public nuisance, and shall be subject to abatement proceedings.

### **Section 5. Enforcement by all Legal Means.**

The Township may in its discretion enforce the terms of this Ordinance by any and all available remedies. Such remedies may include legal proceedings for the enjoining or prevention of violations, the issuance of municipal civil infractions and other enforcement means.

### **Section 6. Penalties.**

A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$250 nor more than \$500 for the first offense, and not less than \$750 nor more than \$1,000 for a subsequent offense, in the discretion of the court, and in addition to all other costs, damages and expenses. For purposes of this section, “subsequent offense” means a violation of a provision of this Ordinance committed by the same person within 12 months of a previous violation of the same

provision of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.

**Section 7. Conflicting Ordinances.**

All ordinances or parts of ordinances in conflict herewith are repealed to the extent necessary to give this Ordinance full force and effect.

**Section 8. Severability.**

In the event that any section, term or provision of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect any other provision of this Ordinance, except insofar as the section, term or provision thus declared invalid shall be inseparable from the remainder of the ordinance or any part thereof.

**Section 9. Effective Date.**

This Ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.

**GREAT LAKES ENERGY COOPERATIVE  
ELECTRIC FRANCHISE ORDINANCE**

**(Ord. No. 06-04)**

An ordinance, granting to Great Lakes Energy Cooperative, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances and facilities on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the Township of Spencer, Kent County, Michigan, for a period of 15 years.

THE TOWNSHIP OF SPENCER ORDAINS:

**Section 1. Grant, Term.**

The Township of Spencer, Kent County, Michigan, hereby grants the right, power and authority to the Great Lakes Energy Cooperative, a Michigan non-profit electric cooperative, its successors and assigns (hereinafter "Grantee"), to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances and facilities, for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the Township of Spencer, Kent County, Michigan, for a period of 15 years.

**Section 2. Consideration.**

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

**Section 3. Conditions.**

All of Grantee's towers, masts and poles shall be neat and sightly, and so placed on either side of the highways, streets, alleys, bridges and waterways, as not to unnecessarily interfere with the use thereof for highway, street and alley purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways, streets and alleys and shall be done so as not to interfere with the use thereof, and when completed, the same shall be left in as good of condition as when work was commenced.

Grantee shall provide notice to the Township before undertaking any significant operation to lay, maintain, operate or install facilities within the Township. The Township may, in its discretion, impose conditions upon the location of such facilities, including requiring that they be underground in certain instances, where such location is a necessary aid to the public health, safety and welfare and, in particular, to the free and effective flow of traffic.



The Grantee shall at all times use due care in exercising the privileges contained in this franchise and shall be liable to the Township and to every owner of property abutting the Grantee's electric lines and other facilities, for all damages and costs arising from the default, carelessness or negligence of the Grantee or its officers, agents and servants.

**Section 4. Indemnification and Hold Harmless.**

As part of the consideration for the granting of this franchise, the Grantee shall, at its sole cost and expense, fully indemnify and hold the Township, its officers, boards, commissions, agents and employees, harmless against any and all claims, demands, lawsuits, actions, liability and judgments for damages arising out of the granting or operation of this franchise, including but not limited to liability for damages to any former holder of a public utility franchise whose franchise may have been revoked and superseded by this franchise. In further consideration for the granting of this franchise, the Grantee shall pay actual attorney's fees, costs and expenses which may be incurred by the Township in defense of or in response to any claim, demand, lawsuit, action or administrative proceeding arising out of the granting of this franchise or the revocation of prior franchises, whether or not judgment is entered against the Township.

**Section 5. Vacation of Rights-of-Way and Relocation of Facilities.**

The Township has the right to vacate any public right-of-way within the Township as well as any right to use same possessed by the Grantee, and/or the Township may require the Grantee to relocate its lines and facilities at said Grantee's own expense when such vacation and/or relocation is made necessary to secure the public health and welfare or is otherwise required by the Township in the exercise of a governmental function. This re-location shall include the re-location of facilities underground where such a re-location is in the public interest and advances the public health, safety and welfare.

**Section 6. Franchise Not Exclusive.**

The rights, power and authority herein granted, are not exclusive.

**Section 7. Revocation.**

The franchise granted by this Ordinance is subject to revocation upon 60 days written notice by the party desiring such revocation.

**Section 8. Michigan Public Service Commission, Jurisdiction.**

Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Township.

**Section 9. Effective Date.**

This Ordinance shall take effect upon the day after the date of publication thereof, provided, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Township Clerk. Upon acceptance and

publication hereof, this Ordinance shall constitute a contract between said Township and said Grantee.

## ANTI-NOISE AND PUBLIC NUISANCE ORDINANCE

(Ord. No. 07-004; amended March 19, 2019)

An ordinance to secure the public health, safety and general welfare of residents and property owners in Spencer Township, Kent County, Michigan, by the regulation of noise within said Township, and to prescribe the penalties for the violation thereof.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Title.**

This Ordinance shall be known and cited as the Spencer Township Anti-Noise and Public Nuisance Ordinance.

### **Section 2. General Noise Regulation.**

No person, firm or corporation or other legal entity shall cause, create, assist in creating, continue or permit the continuance of any unreasonable or unnecessary loud noise or disturbance which endangers the comfort, health, peace, quiet or safety of persons in the Township or their property. Without limiting the general prohibition for all hours, the creation of any noise or disturbance between the hours of 11:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible beyond the property line of the land from which the noise or disturbance is created shall be prima facie evidence of a violation of this Section.

### **Section 3. Specific Violations of Noise Regulation.**

The following noises and disturbances are hereby declared to be a violation of this ordinance; provided, however, that the specification of the same is not thereby to be constructed to exclude other violations of this ordinance not specifically enumerated:

(a) **Radio, Television, Musical Instruments.** The playing of a radio, phonograph, television, or other electronic mechanical sound-producing device, including any musical instrument in such a manner or with such volume as to unreasonably upset or disturb the quiet, comfort or repose of other persons. Without limiting the general prohibition for all hours, it shall also be a violation of this Section to use, operate, or permit to be played any radio, phonograph, television, musical instrument, or other machine or device to produce sound at a volume which is plainly audible beyond the property line where the noise is created between the hours of 11:00 p.m. and 8:00 a.m.

(b) **Shouting or Whistling.** Yelling, shouting, hooting, whistling, singing or the making of other loud noises on the public streets between the hours of 11:00 p.m. and 8:00 a.m. or the making of such noises at any time or place so as to unreasonably upset or disturb the quiet, comfort or repose of any persons in the vicinity.

(c) **Church and Hospital Zones.** The emission or creation of any excessive noise which unreasonably interferes with the operation of any school, church, hospital or court.

(d) **Animals, Birds.** The keeping of any animal, bird or fowl, which emanates frequently or extended noise which shall unreasonably upset or disturb the quiet, comfort or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.

(e) **Loud Motor Vehicles.** The operation of an automobile, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling or other unreasonable noise (including the noise resulting from exhaust), which is clearly audible from nearby properties and which unreasonably upsets or disturbs the quiet, comfort or repose of other persons.

(f) **Horn and Signal Devices.** The sounding of any horn or other device on any vehicle unless necessarily to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.

(g) **Engine Exhaust.** The discharge outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle, or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises.

(h) **Construction Noises.** The erection, excavation, demolition, alteration or repair of any building or premises in any part of the township, and including the streets and highways, in such a manner as to emanate noise unreasonably annoying or disturbing to other persons, other than between the hours of 7:00 a.m. and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such cases of necessity, a permit shall be obtained from the building inspector or ordinance enforcement officer of the township, which permit shall limit the periods that the activity may continue.

(i) **Loading Areas.** The creation of aloud or excessive noise unreasonably annoying or disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car, or other carrier or in connection with the repairing of any such vehicle in or near residential areas.

(j) **Devices to Attract Attention.** The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale, display or other commercial purpose which, by the creation of such noise, shall be unreasonably annoying or disturbing to other persons in the vicinity. Also, the operation of a loudspeaker or other sound amplifying device upon any vehicle on the streets of the township with the purpose of advertising, where such vehicle, speaker or sound amplifying device emits loud and raucous noises easily heard from nearby adjoining residential property.

(k) **Race Courses and Tracks.** The operation of any race track, proving ground, testing area or obstacle course for motor vehicles, motorcycles, boats, racers, automobiles or vehicles of any kind in nature in any area of the township where the noise emanating therefrom would be unreasonably annoying or disturbing to other persons in the vicinity. Under no circumstances shall any race track, proving ground, testing area or obstacle course operate after 11:00 p.m. or before 8:00 a.m.

#### **Section 4. Exceptions.**

None of the prohibitions hereinbefore enumerated shall apply to the following:

- (a) **Emergency Vehicles.** Any police vehicles, ambulances, fire engine or emergency vehicle while engaged in necessary emergency activities.
- (b) **Highway and Utility Maintenance and Construction.** Excavation or repair of bridges, streets or highways or other property by or on behalf of the State of Michigan, the Township, the County of Kent, or any other public utility, or any agency of the foregoing when the public welfare, safety and convenience necessitates the performance of the work at such time.
- (c) **Warning Devices.** Warning devices emitting sound for warning purposes as authorized by law.
- (d) **Agricultural Operations.** Noise created by agricultural operations which is permitted by the Right to Farm Act, being Public Act No. 93 of 1981, as amended.
- (e) **Township Approved Activities.** Township sponsored or approved parades, festivals, fairs or events.

#### **Section 5. Penalties.**

Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$1,000 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all costs, damages, expenses and attorneys fees incurred by the Township. For purposes of this Ordinance, “subsequent offense” means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

The issuance of a municipal civil infraction citation and the imposition of penalties against the violator shall not prohibit the Township from also seeking injunctive relief against the violator as part of the municipal civil infraction proceeding or in a separate circuit court action. In a proceeding for injunctive relief, the violator shall be responsible for all costs, damages, expenses and attorneys fees incurred by the Township. A violation of this ordinance is hereby declared to be a nuisance per se.

#### **Section 6. Severability.**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, such determination shall not affect any provision in this ordinance other than said part or portion thereof.

**Section 7. Effective Date.**

This ordinance shall become effective 30 days after publication or newspaper in general circulation within the Township.

## PLANNING COMMISSION ORDINANCE

(Ord. No. 08 - 001)

An ordinance to create a planning commission by ordinance as required by the Michigan Planning Enabling Act, Act 33 of the Public Acts of Michigan of 2008.

THE TOWNSHIP OF SPENCER ORDAINS:

### Section 1. General Provisions.

(a) **Short Title.** This Ordinance shall be known and may be cited as the Spencer Township Planning Commission Ordinance.

(b) **Statutory Authority.** This Ordinance is authorized by Public Act 33 of 2008, as amended. MCL 125.3801 et seq.

(c) **Continuation of Planning Commission.** The existence and status of the Township Planning Commission is hereby continued for all lawful purposes and effects and without limitation as to duration.

(d) **Repeal.** Any prior resolution establishing the Township Planning Commission is repealed.

(e) **Definitions.** Any words not otherwise defined in this Ordinance are defined as stated in Michigan Public Act 33 of 2008, as amended. If such words have not been defined, they are to be understood by their ordinary meaning.

### Section 2. Transition.

All actions taken by the Township Planning Commission preceding the creation of this Ordinance are approved, ratified and confirmed. Any Planning Commission actions in process at the effective date of this Ordinance shall continue, but shall be subject to the terms hereof.

### Section 3. Membership.

(a) **Composition.** The Planning Commission shall consist of five members.

(b) **Appointment.** The Township Supervisor shall appoint each Planning Commission member, subject to the approval of the Township Board, by majority vote of the Board members elected and serving.

1. **Qualified Electors.** The members of the Planning Commission shall be qualified electors of the Township, except that one of such members need not be so qualified. To be and remain qualified as a member, an elector need not be registered to vote, but shall reside and be eligible to register to vote in the Township. Appointment of one non-qualified elector to the Planning Commission is discretionary only.

2. **Representation.** To the extent practicable, the membership of the Planning Commission shall be generally representative of the diverse interests and areas in the Township.

3. **Township Board Member.** One member of the Planning Commission shall be a member of the Township Board. The term of a Township Board member on the Planning Commission shall be the same as the member's Township Board term. A Township Board member may not serve as chairperson of the Planning Commission.

4. **Township Employees.** Township employees shall not be eligible for membership on the Planning Commission.

(c) **Officers.** At the first meeting of each year, the Planning Commission shall select a chairperson from among its members, who shall serve for a term of one year; the chairperson may be re-elected. At the same meeting, the commission shall also elect a secretary from among the remaining members. The secretary shall have a one-year term and may be re-elected. The Planning Commission shall elect such other officers as the members may determine. The term of each officer shall be one year.

(d) **Term of Office.** Planning Commission members in office at the time of the adoption of this Ordinance shall continue in office until the expiration of their respective terms. Succeeding members shall be appointed for three-year terms. A member's term commences on the date of appointment and terminates three years from the date of appointment, except that a member shall continue to serve until his or her successor is appointed.

(e) **Vacancies.** The Township Board shall fill vacancies in the membership of the Commission in the same manner as provided for the initial appointments. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term, and may be re-appointed to a full term.

(f) **Removal.** The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance, after providing written notice to the member and an opportunity for a public hearing.

(g) **Compensation.** Planning Commissioners may receive such compensation and expense reimbursement as the Township Board may determine.

(h) **Zoning Board of Appeals.** One member of the Planning Commission shall serve as a member of the Zoning Board of Appeals.

#### **Section 4. Powers and Duties.**

(a) **In General.** Unless otherwise reserved in this Ordinance, the Planning Commission has all the powers and duties provided by Michigan Public Act 33 of 2008, as amended, Michigan Public Act 110 of 2006, as amended, and applicable township ordinances.

(b) **Duties and Responsibilities.** The Planning Commission shall perform the following duties and responsibilities, among others:



1. **Bylaws and Other Matters.** The Planning Commission shall adopt bylaws for the transaction of its business and shall keep a public record of its resolutions, findings, determinations and other official actions. Public records shall be available to the public as provided by the Freedom of Information Act, Public Act 442 of 1976, as amended. The bylaws shall provide that members shall not participate in matters as to which they have a conflict of interest. The Planning Commission shall prepare an annual report to the Township Board.

2. **Master Plan.** To guide the development of the Township, the Planning Commission shall prepare a Master Plan in accordance with applicable provisions of Michigan Public Act 33 of 2008, as amended.

3. **Zoning Ordinance.** The Planning Commission shall administer the Township zoning ordinance and take such other actions with respect to zoning and land use planning as are authorized by the terms of the zoning ordinance, other applicable Township ordinances and state law.

(c) **Reservations.** The Township Board retains the responsibility of adopting a capital improvements program for the Township.

**Section 5. Meetings.**

The Planning Commission may hold meetings as frequently as it determines, but may not have fewer than four regularly scheduled meetings each year. The time and place of regular meetings shall be determined by resolution adopted in accordance with the Open Meetings Act, Michigan Public Act 267 of 1976, as amended. Meetings shall be held in accordance with the Open Meetings Act.

**Section 6. Notice; Effective Date.**

This Ordinance shall become effective 63 days after it is published, or 63 days after a summary of its provisions is published in a newspaper of general circulation in the Township.

## SOLICITATION ORDINANCE

(Ord. No. 10-001; amended by Ord. No. 22-01)

An ordinance to protect public health, safety and general welfare by establishing regulations relating to the requirement of licensing of peddlers, solicitors and transient merchants within the Township; to establish procedures for granting licenses; and to provide penalties for violation of the licensing requirements.

THE TOWNSHIP OF SPENCER ORDAINS:

### **Section 1. Ordinance Purpose.**

The purposes of this Ordinance are to protect the interests of the public health, safety, and welfare of the citizens of the Township by regulation, licensing and control of peddlers, hawkers, solicitors and similar salespersons conducting business within the Township.

### **Section 2. License Required.**

It shall be unlawful for any peddler, solicitor or transient merchant whether a person, firm or corporation, to peddle, solicit or engage in business as a transient merchant within the Township as to any merchandise, article or thing without having first secured a license from the Township thereof.

### **Section 3. Definitions.**

(1) The term “solicitor,” as used in this Ordinance, shall mean any person traveling either by foot or vehicle from place to place, who solicits, asks for or invites donations of money or goods; or who takes or attempts to take orders for the sale of goods, wares or merchandise for future delivery, or for services to be furnished or performed in the future. Such definition shall include any person who uses or occupies any building, structure or other place within the Township for such purposes. Solicitor also includes the driver of any vehicle used for or associated with soliciting.

(2) The term “peddler,” as used in this Ordinance, shall mean any person who engages in the temporary business of the retail sale and delivery of goods, wares or merchandise within the Township, and who, for the purpose of conducting such business, uses or occupies any lot, premises, building, room or structure; provided, however, that such definition shall not include merchants having regularly established places of business within the Township, and shall not apply to persons making sales at annual fair, street fair, festival, annual celebration or observance. The term “peddler” shall include “hawker” and “huckster.”

(3) The term “transient merchant,” as used in this Ordinance, shall mean any person who engages in the temporary business of the retail sale and delivery of goods, wares or merchandise within the Township, and who, for the purpose of conducting such business, uses or occupies any lot, premises, building, room or structure; provided, however, that such definition shall not include merchants having regularly established places of business within the Township, and shall not apply to persons making sales at annual fair, street fair, festival, annual celebration or observance.

**Section 4. License, Application and Fee.**

(1) Application for a license for a peddler, solicitor, or transient merchant shall be made to the Township Clerk. The application shall be in the form prescribed by the Township and shall include the following:

(a) The name, address, telephone number and email of the applicant, including both local information and permanent information, if different. Each individual solicitor must supply, in person, a copy of their driver's license or other form of government-issued photo personal identification to the Township.

(b) The name, address, telephone number, and email of each employee, agent or independent contractor who shall be operating as a peddler, solicitor or transient merchant, if any.

(c) A description of the nature of the business and the goods or services to be offered.

(d) The length of time for which the solicitation within the Township is desired.

(e) The hours of the day and the days of the week during which the applicant and all employees, agents and independent contractors will be engaging in the proposed soliciting, peddling or other sales activity.

(f) The location of the proposed sales activity, if soliciting or peddling, the routes and locations thereof, identified by the relevant streets and cross-streets.

(g) The place where the goods, if any, are manufactured or produced, where they are located at the time the application is filed and the proposed method of delivery.

(h) Such other information as the Clerk may reasonably determine is necessary to determine the nature and character of the proposed operations.

(i) The address of the place at which the business is to be conducted, if any.

(j) The description and number of vehicles to be used in such operations, if any.

(k) Each applicant shall sign a statement as to whether or not that individual (or that individual's firm, corporation, or organization) has been convicted of a felony and/or a misdemeanor theft or fraud offense and if so, stating the nature of the offense. A "yes" response is cause for denial of a license for the applicant.

(2) Any applicant shall pay the application fee established by resolution of the Township Board.

(3) Upon receiving an application, the Township Clerk shall determine whether all the required contents of the application have been submitted. If any required information or items have not been included, the Clerk shall notify the applicant and return the application for correction or supplementing.

(4) If the Township Clerk determines that all required contents of the application have been submitted, and after the application fee has been paid, the clerk shall make investigation of the applicant, the applicant's business or organization and other matters as the Township Clerk determines necessary for the protection of the public with respect to soliciting, peddling and other sales activity regulated by this Ordinance.

(5) If the results of the Township Clerk's investigation are satisfactory and the requirements of this Ordinance are met, the Township shall prepare and issue a license to the applicant. The license shall be displayed by the solicitor, peddler or transient merchant at all times while soliciting or selling goods within the Township.

(6) A peddler, solicitor or transient merchant shall not commence the proposed activity within the Township prior to the issuance of a license.

(7) A license issued under this Ordinance shall be for a duration not to exceed six months; provided, however, that the license may be renewed if the information contained in the renewal application remains unchanged from the application. The Township Clerk shall review applications and issue licenses, and determine the duration thereof. A renew application fee, if any, shall be paid by the applicant.

(8) Any denial of a license application shall be made in writing specifying the reasons for denial within ten (10) business days after the filing of a complete application. Any appeal of a license denial pursuant to this Ordinance shall be in writing signed by the applicant and filed with the Township Clerk within ten (10) days of the date of denial. All appeals shall be decided by the Township Board.

(9) A license shall be denied by the Township if any of the following standards are not met:

(a) Every requirement of this Ordinance will be met.

(b) The safety of the residents of the Township will be protected.

(c) Neither the applicant nor the applicant's employer or organization has been convicted of either a felony or any kind of misdemeanor involving solicitation, theft or fraud.

(d) Neither the applicant nor the applicant's employer or organization is delinquent in any real or personal property taxes or other indebtedness to the Township.

## **Section 5. Exemptions from License.**

The licensing provisions of this chapter shall not apply to the following:

(a) Persons engaged in farming who are selling or offering for sale produce grown and harvested on their own farmlands, if such activity is otherwise in compliance with Township ordinances.

(b) Public school or private school students soliciting donations, taking orders or selling merchandise solely for the benefit of their respective schools or classes, activity groups or athletic teams thereof. This exemption shall apply only to private schools located in the Township and to public schools which include any part of the Township within their respective school district boundaries.

(c) Members of churches, synagogues, mosques and other religious organizations that have a house of worship within the Township and which are established and in good standing as Michigan ecclesiastical corporations. This exemption shall apply only to solicitations or sales that are solely for the benefit or religious missions of such churches, synagogues, mosques or other religious organizations. Any solicitor for any ground listed under subsection (c) must still register with the Township and provide the Township Clerk with a name, address, and a copy of their driver's license before such exempt solicitation can occur within the Township. The applicant shall provide evidence to the Township that the applicant is soliciting for an church, synagogue, mosque or other religious organization that has a house of worship within the Township and is established and in good standing as a Michigan ecclesiastical corporation.

(d) Any person who is soliciting for a state or federally registered or recognized charity, a nonprofit corporation or entity shall not be required to obtain any license or pay any license fee. Any solicitor for any ground listed under subsection (d) must still register with the Township and provide the Township Clerk with a name, address, and a copy of their driver's license before such exempt solicitation can occur within the Township. The applicant shall provide evidence (i.e. 501(c)(3) status, etc.) to the Township that the organization for which the solicitation is taking place is a registered or recognized charity, or a nonprofit corporation or entity.

(e) Persons who display and sell used household goods at their own dwellings if such activity is otherwise in compliance with the Township's Zoning Ordinance.

(f) Persons soliciting at private homes for the purpose of soliciting or obtaining orders for the sale of goods or merchandise, if such persons are on the premises of such homes because of prior invitation by the owner or a resident thereof.

(g) Veterans who are honorably discharged and qualify under the License to Sell Goods Act, Act 359 of 1921, shall have the right to hawk, vend or peddle his or her goods, wares and merchandise for their personal benefit or gain within the Township by procuring a license from the Kent County Clerk, as provided in Act 359 of 1921. Veterans who qualify under Act 359 of 1921 do not have to obtain an additional license from the Township.

(h) Any person who is exempt from such license under the terms of state or federal law, but such persons shall remain subject to the other provisions of this chapter, except as to those provisions which may be preempted by state or federal law.

(i) Solicitations exclusively intended to canvass or petition for a public official, political candidate, public policy or initiative being promoted for purposes of a public referendum, initiative, millage, or election do not require any registration, license or license fee.

**Section 6. Showing of License.**

A license issued pursuant to this Ordinance shall be carried by the person to whom the license was issued, while he or she is engaging in the activity authorized by the license. The licensee shall produce the license at the request of any law enforcement official or resident of the Township.

**Section 7. Hours and Days of Business.**

No peddler, solicitor or transient merchant shall call at any dwelling or residence except between the hours of 9:00 a.m. and 5:00 p.m. on Monday through Saturday without an appointment.

**Section 8. Obedience to Signs.**

No peddler, solicitor or transient merchant shall call without an appointment at any dwelling or residence where a sign is displayed stating “no peddlers,” “no solicitors,” “no canvassers,” no salesmen,” “no trespassing,” or words of similar meaning or import.

**Section 9. Exhibition of License.**

If requested by any person, a peddler, solicitor or transient merchant shall exhibit the Township license issued to him or her or to his or her employer.

**Section 10. Prohibited Activities.**

The following acts or activities are prohibited:

(1) No solicitor, peddler or transient merchant shall obstruct any street, alley sidewalk or driveway, nor interfere with the passage of any other persons within such areas.

(2) No solicitor or peddler shall enter upon and/or call upon a dwelling or business location after having been expressly notified by the owner or occupant of the dwelling or the owner or manager of the business that no solicitation or peddling is desired.

(3) No transient merchant shall operate or maintain any stand, vehicle or other place of business within any private property as to which consent from the owner has not been obtained. A transient merchant shall not locate his or her stand, vehicle or other place of business in such close proximity to a street, alley, sidewalk or other public place such that a person engaged in any transaction must of necessity stand within the boundaries of any such street, alley, sidewalk or other public place.

(4) No solicitor, peddler or transient merchant shall stop or park a vehicle at the curb for the purpose of solicitation from a vehicle, nor shall any person establish a stand, booth or other place of business on any street curb, sidewalk, public right-of-way or other public place. This subsection shall not be interpreted to prohibit parking for the purpose of making deliveries or for the purpose of consummating a business transaction with persons waiting at the curb, provided that the solicitor, peddler or transient merchant leaves the curb immediately after the deliveries or transactions are completed.

(5) No solicitor, peddler or transient merchant shall, while in a stationary position in a public place, shout, cry out his goods or merchandise or blow any horn, ring any bell, broadcast or play any sound, or use any similar device to attract the attention of the public.

(6) No solicitor, peddler or transient merchant shall sell or offer for sale any unsound, unripe or unwholesome food, drink, or defective, faulty, incomplete or deteriorated article of merchandise.

(7) No person shall engage in any solicitation on any property against the wish or desire of the property owner or the tenant or occupant of the property. No person shall trespass on the property of another while engaged in solicitation. No person shall block or impede the passage of the person(s) being solicited. No person shall follow the person being solicited after that person has objected to the solicitor or asked the solicitor, peddler or transient merchant to leave.

(8) No person engaged in solicitation or peddling shall enter upon a property or call upon any occupant of the property by any means of entry or contact other than approaching the front entry door of the premises. No person engaged in solicitation or peddling shall enter into an attached or detached garage or a rear or side yard, unless invited by an occupant of the premises.

(9) No solicitor, peddler or transient merchant shall threaten or accost any resident of the Township in the course of solicitation, peddling or other sales activity nor engage in any conduct which is a nuisance or would tend to create a nuisance.

#### **Section 11. Suspension of License.**

(1) The Township Supervisor or Township Clerk, or such other Township official designated by the Township Supervisor shall have the power to suspend any license issued under the terms of this Ordinance for violation of any provision of the this Ordinance. The Township Supervisor, Township Clerk or other Township official designated by the Township Supervisor shall also have the power to suspend any license as a result of unlawful or fraudulent business practices by the applicant or other unlawful activity by the applicant.

(2) Such suspensions may be effective immediately or at a stated time, at the discretion of the Township official revoking the license. The Township Clerk shall notify the holder of the license in writing of any such suspension. Such notification shall be sufficient if the writing is mailed by U.S. mail to the address of the license as stated in the application.

(3) The Township Clerk shall report all suspensions to the Township Board.

(4) The Township Supervisor, Township Clerk or other Township official designated by the Township Supervisor may remove any suspension and cause the license to again become effective, at such time the licensee has again complied with the license and this Ordinance, or at such time as the licensee has otherwise removed the cause for the suspension.

(5) If the licensee who has had his or her license suspended later applies for a new or different license under this Ordinance, the Township may consider the reasons for the previous suspension in evaluating whether the new or different application should be approved.

(6) A person whose license has been suspended may appeal in writing, signed by the applicant to the Township Clerk within 14 days after the notification of the suspension has been mailed to the licensee. All appeals shall be decided by the Township Board.

**Section 12. Revocation of a License.**

(1) A license issued pursuant to this Ordinance may be revoked by the Township. Such revocation may be made by the Township Supervisor, Township Clerk, or such other Township official that is designated by the Township Supervisor.

(2) The applicant may appeal the revocation of the license by filing an appeal with the Township Clerk. Any appeal must be in writing, signed by the applicant, and filed with the Township within ten (10) days of the date of the license revocation. All appeals shall be decided by the Township Board.

(3) When determining whether or not to revoke a license issued under this Ordinance or an appeal of such a revocation, the Township official or Township Board shall consider the following:

- (a) Whether one or more provisions of this Ordinance have been violated.
- (b) Whether continued action pursuant to the license would endanger the health, safety or welfare of Township residents or property owners.
- (c) Whether there were any material misrepresentations in the license application.
- (d) Whether the licensee has entered a private residence under pretense, other than for soliciting or peddling.
- (e) Whether the licensee has remained in a private residence or on the premises thereof after the owner or occupant has requested any such person to leave.

**Section 13. Fraud or Misrepresentation.**

Any licensed peddler, solicitor, or transient merchant who shall be found guilty of any fraud, cheating or misrepresentation, whether directly or through any other person, in any court, while acting as a peddler, solicitor or transient merchant within the Township, shall be in violation of this Ordinance.

**Section 14. Penalty.**

(1) A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$1,000 for a subsequent offense, in the discretion of the court, in addition to all other costs, damages, attorney fees and expenses. For the purpose of this section “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 12 months of a prior violation of the same provision of this Ordinance for which the person admitted responsibility or was adjudicated to be responsible. Each day during which a violation continues shall be deemed a



separate offense. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

(2) The Township Supervisor, the Kent County Sheriff or Deputy Sheriff and such other officer or other official designated by the Township Supervisor are hereby authorized to issue citations for violation of the provisions of this Ordinance if they have reasonable cause to believe that an infraction has occurred, based on personal observation or the report of a person who has allegedly witnessed the infraction. If a citation is based solely on the complaint of someone who allegedly witnessed the violation, and not upon the personal observation of the officer or official, then the citation shall be approved in writing by the Township Supervisor.

(3) Citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator's Office.

(4) Citations shall be served upon the alleged violator as provided by law.

(5) Citations shall require the appearance at the district court within a reasonable time after the citation has been issued. The procedures for admission or denial of responsibility, request for informal or formal hearings, and all matters related to the processing of citations for civil infractions shall be as provided by law.

#### **Section 15. Records.**

A complete record of each license issued under this Ordinance, including any renewals, suspensions or revocations thereof, shall be kept on file by the Township Clerk. Such records shall also include any complaints made against the licensee, any change of address of the licensee and other information related to the licensee's conduct under the license.

# PROHIBITION AGAINST USE OF WATERCRAFT FOR LIVING PURPOSES

(Ord. No. 20-01)

An ordinance to secure the public health, safety and general welfare of residents and property owners in Spencer Township, Kent Count, by prohibiting the use of watercraft located on lakes and other bodies of water in the Township for living and housekeeping purposes, and to prescribe the penalties for the violation thereof.

THE TOWNSHIP OF SPENCER ORDAINS:

## **Section 1. Definitions.**

(a) “Watercraft” means any boat, houseboat, barge, or any other type of vessel capable of floating on water, whether powered or unpowered.

(b) “Living purposes” means (i) the human occupation for housekeeping or sleeping purposes; (ii) of a watercraft which is moored or anchored or drifting; (iii) for more than one night between the hours of 10:00 p.m. and 5:00 a.m. the following day. “Living purposes” does not include occupation of watercraft during those hours which is (i) under power or sail or human propulsion, or (ii) anchored for bona fide fishing or recreational purposes in a watercraft which does not include an enclosed cabin, berths, cooking, or toileting facilities.

## **Section 2. Prohibition.**

(a) No watercraft shall be used for living purposes on any body of water in the Township.

(b) This Ordinance does not apply to watercraft located on private land or secured alongside a dock extending from a private lakefront property by the owner of the property or with the permission of the owner. Use of watercraft in these locations is subject to the Township zoning ordinance provisions for temporary use of recreational vehicles as dwellings for camping purposes.

## **Section 3. Penalties.**

Violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense and not less than \$1,000 nor more than \$2,500 for subsequent offenses, in the discretion of the court, and in addition to all costs, damages, expenses and attorney fees incurred by the Township. For purposes of this Ordinance, “subsequent offense” means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

The issuance of a municipal civil infraction citation and the imposition of penalties against the violator shall not prohibit the Township from also seeking injunctive relief against the violator as part of the municipal civil infraction proceeding or in a separate circuit court action. In a proceeding for injunctive relief, the violator shall be responsible for all costs, damages, expenses and attorney fees incurred by the Township. A violation of this ordinance is hereby declared to be a nuisance per se.

**Section 4. Severability.**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, such determination shall not affect any provision in this ordinance other than said part or portion thereof.

**Section 5. Effective Date.**

This ordinance shall become effective 30 days after publication of this ordinance or when a notice of adoption summarizing the provisions of this ordinance appears in a local newspaper generally circulated in the Township.

Adopted: July 21, 2020

Effective: September 26, 2020