

**THE
SPENCER
MUNICIPAL
CODE**

Prepared by the

**MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE**

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

October 1996

Change 1, October 29, 2015

CITY OF SPENCER, TENNESSEE

MAYOR

Mickey S. Robinson

VICE MAYOR

Freddy Solomon

ALDERMEN

Bonnie Adcock

Peggy Bayless

Stacy Oakes

Robert Shelley

RECORDER

Zeda Hillis

PREFACE

The Spencer Municipal Code contains the codification and revision of the ordinances of the Town of Spencer, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the town's ordinance book or the town recorder for a comprehensive and up to date review of the town's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the town agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
TOWN CHARTER**

SEC. 13. Be it further enacted, That the Board of Mayor and Aldermen shall, in passing of all ordinances observe the following:

Said ordinances shall be read in full at a regular or specially called meeting of the Board and shall be passed by the affirmative vote of three or more Aldermen. Said ordinances shall be approved in writing by the Mayor on or before the next regular meeting of the Board, or, in case of his veto as hereinbefore provided, passed again by the affirmative vote of at least three of the Aldermen. Ordinances shall be divided, when necessary, into appropriate sections, shall be brief but intelligent in form and substance. All ordinances, after final passage shall be recorded in full in a well-bound book and a certified copy thereof attested by the Recorder shall be received in the Courts of the State as competent evidence of the provisions thereof. In case the Mayor fails or refuses to approve or veto any ordinance by the next regular meeting of the Board, such ordinance shall become effective at once by the affirmative vote of three Aldermen. The Recorder is required to record all ordinances as soon after passage as can be conveniently done.

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. RECORDER.
2. CITY ADMINISTRATOR.
3. CODE OF ETHICS.
4. PUBLIC RECORDS.

CHAPTER 1

RECORDER²

SECTION

1-101. Recorder to be certified.

1-101. Recorder to be certified. The City of Spencer adopts by reference the requirements of Public Acts 1994, Chapter 648, which is attached to this ordinance³ and made a part thereof as if it were fully set out in the text of this ordinance. (Ord. #94-1, Oct. 1994)

¹Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

Utilities: titles 18 and 19.

²Charter references

Bond: § 9.

Compensation: § 26.

Duties: §§ 8a and 15.

Oath of office: § 9.

Term of office: § 8a.

Vacancy in office: § 22.

³Attachments to Ord. #94-1 are of record in the recorder's office.

CHAPTER 2

CITY ADMINISTRATOR

SECTION

1-201. General duties and responsibilities of city administrator.

1-201. General duties and responsibilities of city administrator.

(1) To recommend for appointment, removal, or discipline by the board all department heads; and to appoint, remove, or otherwise discipline all subordinate officers and employees, all appointments to be made upon merit and fitness alone. All personnel actions are subject to review by the board of mayor and aldermen.

(2) To see that all laws and ordinances, subject to enforcement by him or by officers subject to his direction, are enforced, and upon knowledge or information of any violation thereof to see that prosecutions are instituted.

(3) To attend all board meetings and to have the right to take part in any discussions, but not to vote.

(4) To prepare and submit, in collaboration with the city recorder and budget committee, an annual operating budget to the board prior to the beginning of the fiscal year.

(5) To submit to the board a complete report on the financial condition of the city at the end of each fiscal year and at such other times as may be required by the board.

(6) To make such other reports on the activities of the city as the city board may require or as he sees the need for and to make such recommendations as in his opinion are necessary to improve the effectiveness and efficiency of the city's operations or as are needed for the overall good of the city.

(7) To act, in the absence of the city recorder, as purchasing agent for the city, purchasing all materials, supplies, and equipment needed by the city in accordance with the state's purchasing laws and procedures.

(8) To perform other duties required by the city charter or the city board. (as added by Ord. #2004-6, Oct. 2004)

CHAPTER 3

CODE OF ETHICS

SECTION

- 1-301. Applicability.
- 1-302. Definition of "personal interest."
- 1-303. Disclosure of personal interest in voting matters.
- 1-304. Disclosure of personal interest in nonvoting matters.
- 1-305. Acceptance of gratuities, etc.
- 1-306. Use of information.
- 1-307. Use of municipal time, facilities, etc.
- 1-308. Use of position or authority.
- 1-309. Outside employment.
- 1-310. Ethics complaints.
- 1-311. Violations.

1-301. Applicability. This chapter constitutes the code of ethics for officials and employees of the City of Spencer. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #2007-10, June 2007)

1-302. Definition of "personal interest." (1) For purposes of §§ 1-303 and 1-304, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a city board not otherwise regulated by state statutes on conflicts of interest; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #2007-10, June 2007)

1-303. Disclosure of personal interest in voting matters. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #2007-10, June 2007)

1-304. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #2007-10, June 2007)

1-305. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing city business. (as added by Ord. #2007-10, June 2007)

1-306. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #2007-10, June 2007)

1-307. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the city. (as added by Ord. #2007-10, June 2007)

1-308. Use of position or authority. (1) An official or employee may not use or attempt to make private purchases, for cash or otherwise, in the name of the city.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the city. (as added by Ord. #2007-10, June 2007)

1-309. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the city position or conflicts with any provision of the city's charter or any ordinance or policy. (as added by Ord. #2007-10, June 2007)

1-310. Ethics complaints. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request that the city council hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interest in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the city council, the city council shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the city council.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than a violation of this code of ethics. (as added by Ord. #2007-10, June 2007)

1-311. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law and in addition is subject to censure by the board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #2007-10, June 2007)

CHAPTER 4

PUBLIC RECORDS

SECTION

1-401. Maintenance, preservation, and protection of public records.

1-401. Maintenance, preservation, and protection of public records. Procedures regarding access to and inspection of public records.

(1) Consistent with the Public Records Act of Tennessee, personnel of the City of Spencer shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records.

(2) Employees of the City of Spencer shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of employees of the city. All copying of public records must be performed by employees of the city.

(3) In order to prevent excessive disruptions of the work of employees of the city, and disruptions of the essential functions and duties of such employees, persons requesting inspection and/or copying of public records shall complete a records request form to be furnished by the city. Persons requesting access to open public records shall describe such records with particularity, so the records may be located and copied by employees.

(4) When voluminous records are requested in writing using the designated form, the person requesting such access shall make an appointment with the records supervisor or his designee of the department holding such records. Appointments for inspection of records shall be for no longer than two (2) hours in one (1) day per request. If further inspection is needed by the requesting party, another appointment may be scheduled. The purpose of this policy is to prevent monopolization of working hours of city employees, and interference with their work duties. Employees shall make every effort to schedule appointments and copying of records so as to provide full access to the requesting party.

(5) Persons may further request that copies be made of open public records. The charge for such copies shall be fifty cents (\$0.50) per page. Payment of such copying fees is due when the copies are received by the requesting party. If voluminous copies are requested, the city reserves the right to take seventy-two (72) hours, during the work week, to prepare such copies pursuant to a written request. No open public records may be removed from city office for the purpose of copying.

(6) If the public records requested are frail due to age or other conditions, and copying of such records will cause damage to the original records, the requesting party may be required to make an appointment for inspection as provided in subsection (4).

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. RECREATION ADVISORY BOARD.

CHAPTER 1

RECREATION ADVISORY BOARD

SECTION

2-101. Creation of board.

2-102. Officers.

2-103. Meetings.

2-104. Functions and powers of the board.

2-105. Records.

2-101. Creation of board. (1) Establishment. The Spencer Recreation Board is established in accordance with Tennessee Code Annotated, § 11-24-103.

(2) Office of board. The office of the Spencer Recreation Board shall be at the Spencer City Hall, or such other duly authorized place where the official records of the recreation board shall be maintained and where the board shall meet.

(3) Membership. The membership of this board shall be composed of six (6) persons. One (1) member shall be the Mayor of Spencer or a member of the board of mayor and aldermen designated by the mayor to represent him. One (1) member shall be the Van Buren County School Superintendent or a member of the school board designated to represent him. Designated members shall serve for terms coterminous with their elected service. Four (4) members shall be at-large members appointed by the Mayor of Spencer. The terms of the at-large members shall be four (4) years except terms of those first appointed shall be arranged so that one (1) expires each year.

(4) Vacancies. Any vacancy in membership shall be filled for the unexpired term by the chief executive officer of the municipality.

2-102. Officers. (1) Officers. The officers of the board shall be a chairman, vice-chairman and secretary.

(2) Elections. The officers of the board shall be elected at the annual meeting of the recreation board. All officers shall serve for terms of one (1) year, with eligibility for reelection.

(3) Chairman. The chairman shall preside at all meetings of the board and shall perform such other duties as the commission shall authorize. The chairman shall exercise his voice and vote as a member of the commission.

(4) Vice-chairman. In the absence of the chairman, the vice-chairman shall assume the duties of the chairman.

(5) Secretary. The secretary shall keep all minutes of the board, handle correspondence and sign all resolutions and documents of the board.

(6) Vacancies. Should the office of vice-chairman become vacant, the board shall elect a successor to this position.

2-103. Meetings. (1) Regular meetings. Regular meetings of the board shall be held bimonthly on the first Tuesday of the month at 6:00 P.M. in the months of January; March, May, July, September, and November, unless no business is pending, in which case no meeting shall be held.

(2) Annual meetings. The annual meeting of the Spencer Recreation Board shall be held on the first Tuesday of May. The purpose of this annual meeting shall be to elect officers of the board in the manner provided under § 2-102.

(3) Special meetings. Special meetings may be called by the chairman, provided that at least two (2) days' notice of such meeting is given to each member.

(4) Quorum. A quorum shall consist of four (4) members. Concurring votes of a majority of the board shall be required to approve final action on any matter.

(5) Order of business. The order of business at all meetings of the board shall be as follows:

- (a) Roll call;
- (b) Reading of minutes of previous meeting;
- (c) Unfinished business; and
- (d) New business.

2-104. Functions and powers of the board. (1) Functions. The board shall perform those duties granted recreation advisory boards in Tennessee Code Annotated, § 11-24-103.

(2) Purpose. The primary purpose of the board is to advise the Spencer Board of Mayor and Aldermen on all matters pertaining to the recreation facilities and programs of the Town of Spencer.

2-105. Records. (1) Minutes and decisions. A file of all minutes, decisions and recommendations of the recreation board shall be kept at the Spencer City Hall.

(2) Public records. All records of the board shall be a public record.

TITLE 3

MUNICIPAL COURT¹

CHAPTER

1. MUNICIPAL COURT.

CHAPTER 1

MUNICIPAL COURT

SECTION

3-101. Qualifications, manner of selection, compensation, oath of office, and manner of filling vacancies in the office of municipal judge.

3-102. Municipal court schedule of offenses, fines and cost.

3-103. Failure to appear.

3-101. Qualifications, manner of selection, compensation, oath of office, and manner of filling vacancies in the office of municipal judge.

(1) The Municipal Judge for the City of Spencer, Tennessee shall be thirty (30) years of age, and shall be a resident of the State of Tennessee for five (5) years and a resident of the City of Spencer for one (1) year. In the event he or she removes his or her residency from the City of Spencer he or she shall automatically vacate his or her office.

(2) The city judge shall be appointed by, and serve at the will and pleasure of the board of mayor and aldermen.

(3) Vacancies in the office of city judge shall be filled by the board of mayor and aldermen.

(4) The compensation of the city judge shall be set by ordinance.²

(5) Before entering upon the duties of office the municipal judge shall take the oath or affirmation required of judges of courts of Tennessee as set out in Tennessee Code Annotated, § 17-1-104.

(6) The board of mayor and alderman shall designate a qualified person to serve as judge in the event the judge is absent or is disabled and unable to perform his duties as city judge. (Ord. #11, Dec. 1923, as replaced by Ord. #2011-4, Sept. 2011)

¹Charter reference: § 14.

²Ordinances setting compensation of city judge are of record in the recorder's office.

3-102. Municipal court schedule of offenses, fines and cost.**(1) MUNICIPAL COURT
OFFENSES AND FINES AND COST
EFFECTIVE OCTOBER 1, 2011**

	<u>FINE</u>	<u>COST</u>	<u>TOTAL</u>
Violation of registration law	25.00	100.00	125.00
No drivers license	25.00	100.00	125.00
Violation of light law	25.00	100.00	125.00
Violation of muffler law	25.00	100.00	125.00
Running red light	50.00	100.00	150.00
Running stop sign	50.00	100.00	150.00
Failure to yield	50.00	100.00	150.00
Following too close	50.00	100.00	150.00
Improper lane change/usage	50.00	100.00	150.00
Improper turn/passing	50.00	100.00	150.00
Obstructing traffic	50.00	100.00	150.00
Corner cutting	50.00	100.00	150.00
Littering	50.00	100.00	150.00
Open container	50.00	100.00	150.00
Violation safety equipment	50.00	100.00	150.00
Allowing unlicensed driver to drive	50.00	100.00	150.00
Careless driving	50.00	100.00	150.00
Violation of bumper law	50.00	100.00	150.00
Tinted windows	50.00	100.00	150.00
Child restraint	50.00	100.00	150.00
Passing school bus	50.00	100.00	150.00
Violation of financial	50.00	100.00	150.00

<u>SPEEDING</u>	<u>FINE</u>	<u>COST</u>	<u>TOTAL</u>
(+ 9 miles over)	15.00	100.00	115.00
(+ 10 - 19 miles over)	25.00	100.00	125.00
(+ 20 - 29 miles over)	40.00	100.00	140.00
(+30 miles over)	50.00	100.00	150.00
Seat belt 1st offense	10.00		10.00
Seat belt 2nd offense	20.00		20.00

(2) In all cases heard and determined by him or her, the municipal judge shall impose court cost in the amount set forth in the municipal court schedule of offenses, fines and cost. (Ord. #69-10, June 1969, as replaced by Ord. #2011-4, Sept. 2011, and amended by Ord. #2012-3, March 2012)

3-103. Failure to appear. (1) It is unlawful and a violation of the ordinances of the City of Spencer for any person to knowingly fail to appear as directed by lawful authority if the person:

(a) Has been lawfully issued a citation of the City of Spencer commending such person to appear before the municipal court of the City of Spencer.

(b) Has given a written promise to appear in the municipal court of the City of Spencer to a lawful officer of the City of Spencer upon the issuance of a traffic citation, unless such person elects to forfeit the prescribed cash bond or deposit accepted by the City or unless the citation is otherwise dismissed.

(2) It is a defense to the offense of failure to appear that the person had a reasonable excuse for failure to appear at the specified time and place.

(3) Failure to appear before the municipal court is a separate offense and violation of ordinance from the offense or violation of ordinance for which the defendant failed to appear.

(4) Failure to appear is a civil offense punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances. (as added by Ord. #2012-4, March 2012)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY.
2. PERSONNEL POLICIES AND PROCEDURES.
3. EMPLOYEE POSITION CLASSIFICATION/COMPENSATION PLAN.

CHAPTER 1

SOCIAL SECURITY

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusions.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Spencer, Tennessee, to extend at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (Ord. #35, March 1953)

4-102. Necessary agreements to be executed. The Mayor of the City of Spencer, Tennessee is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (Ord. #35, March 1953)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #35, March 1953)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions; which shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #35, March 1953)

4-105. Records and reports to be made. The town shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #35, March 1953)

4-106. Exclusions. Notwithstanding any provision(s) heretofore contained in the Social Security Agreement between said parties, it is the intent and purpose of the board of mayor and aldermen of the Town of Spencer, Tennessee, to amend the Social Security Agreement by and between the Town of Spencer, Tennessee, and the State Old Age and Survivors Insurance Agency, to exclude from its coverage group under the federal system of Old Age, Survivors, Disability, Health Insurance, the services of election officials/workers if the enumeration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount hereafter determined under Section 218(c) (8)(B) of the Social Security Act, for any calendar year commencing on or after January 1, 2000. (Ord. #95-2, April 1995)

CHAPTER 2

PERSONNEL POLICIES AND PROCEDURES

SECTION

4-201. Personnel regulations.

4-201. Personnel regulations.¹ The City of Spencer has a system of personnel administration that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal workforce through impartially applying personnel policies and procedures free of personal and political considerations and regardless of race, color, gender, age, creed, national origin or disability. (Ord. #2004-1, March 2004)

¹Personnel regulations for the City of Spencer, and all amendments thereto, are available in the office of the city recorder.

CHAPTER 3

EMPLOYEE POSITION CLASSIFICATION/COMPENSATION PLAN

SECTION

- 4-301. Purpose.
- 4-302. Job descriptions.
- 4-303. Pay grades and pay ranges.
- 4-304. Assignment of jobs.
- 4-305. Rates of pay.
- 4-306. Pay adjustments.
- 4-307. Pay structure adjustment increases.
- 4-308. Lump sum payments--employees in Step 7.
- 4-309. Promotional increases.
- 4-310. Temporary reassignment.
- 4-311. Lateral job reassignments.
- 4-312. Demotions or reassignment to a lower pay grade.
- 4-313. Re-classification of position.
- 4-314. Light duty assignments.
- 4-315. Funding.

4-301. Purpose. (1) To provide guidelines for the administration of employee salaries, including starting pay rates, pay increases, promotional increases, and other salary adjustments.

(2) **Policy objectives.** This policy is intended to promote the following:

(a) Ensure competitive pay practices to allow the City of Spencer to effectively compete in the market for the talent needed to meet and exceed its performance standards.

(b) Ensure fair and unbiased treatment of employees relative to pay administration.

(c) Ensure that the City of Spencer salary expense is consistent with taxpayers' expectations for reasonable labor costs. (as added by Ord. #2004-4, June 2004)

4-302. Job descriptions. A written job description is to be developed and maintained for each position recognized by the City of Spencer. Job descriptions are to be written so as to meet the requirements of all applicable state and federal laws and regulations. Periodically (at least once each year), job descriptions are to be reviewed by incumbents and/or supervisors to ensure they are up-to-date. Supervisors are responsible for accurate, up-to-date, job documentation. (as added by Ord. #2004-4, June 2004)

4-303. Pay grades and pay ranges. (1) Number of pay grades. Pay is to be administered within eight (8) classifications, or pay grades.

(2) Pay steps. Each pay grade will be assigned a series of pay steps. There will be seven (7) pay steps for each pay grade.

(3) Adjustment of pay grade/steps. The pay table is subject to review on an annual basis and will be adjusted if necessary to ensure that the city's pay practices remain competitive with changes in labor market conditions. As appropriate, this review will consist of:

(a) Gathering comparative salary data for benchmark jobs from published sources or direct contacts with competing employers;

(b) Comparing market salary data obtained for each benchmark job with the corresponding City of Spencer pay steps (Step 4 should approximate the salary survey average for the benchmark jobs in a particular pay grade); and

(c) If necessary, adjusting the City of Spencer pay ranges so that Step 4 will approximate the market value for jobs in each pay grade. (as added by Ord. #2004-4, June 2004)

4-304. Assignment of jobs. Each job is to be assigned to the pay grade for which Step 4 best matches the competitive market value for the job. Deviations may be made if strategic business considerations dictate that certain jobs (not employees) should be valued differently than their market value. (as added by Ord. #2004-4, June 2004)

4-305. Rates of pay. (1) Starting rates. New hires possessing the minimum level of skills, knowledge, and abilities required by a job are normally hired at Step 1 for the job. Candidates with more relevant experience, more education, or higher skill level than normally required may be hired at Step 2, 3 or 4 pending approval of the city administrator. The current pay rates, qualifications, and skill levels of existing job incumbents should be carefully considered before a new employee is hired at Step 2 or above.

(2) Rates above the pay range. Step 7 of each pay range is intended to serve as a guideline for management for the highest pay rate the City of Spencer will normally pay an employee for a particular job. Instead of annual step increases, employees paid at Step 7 rate or above are eligible only for lump sum payments.

(3) Rate below the minimum. It is possible that employees' pay rates, probably for recent hires, will occasionally fall below Step 1 upon adjustment of the pay table itself. Normally, the pay rates of such employees will be immediately adjusted to the new Step 1 at the time the new pay table becomes effective. (as added by Ord. #2004-4, June 2004)

4-306. Pay adjustments. (1) Step increases. Eligibility. All regular full-time employees in good standing whose current pay rate is in Step 6 or below are eligible for a pay increase on their employment anniversary or anniversary of date-in-job (if promoted or transferred into their current position)

each year. Employees who have been placed on disciplinary status will not receive a step increase until such disciplinary action has been resolved.

(2) Step increase amount. The base pay rate of employees eligible to receive a step increase will be increased to the next step in their pay grade. An employee whose pay rate has advanced to Step 7 is not eligible to receive any step increase.

(3) Step increases--employees on leave of absence. Scheduled step increases will be postponed for employees on approved medical or personal leave of absence until they return to work. Step increases will be postponed beyond the date of return to work in cases where such absence exceeds four (4) months (will normally be postponed one (1) additional month for every month of leave beyond four (4)).

(4) Merit increases--employees on light duty. Employees in light duty positions are eligible for a step increase just like all other regular active employees. (as added by Ord. #2004-4, June 2004)

4-307. Pay structure adjustment increases. The pay table for the City of Spencer may be adjusted periodically to keep pace with the labor market. Normally this adjustment will be effective July 1 or the beginning of the fiscal year. At the time any adjusted pay table is put into effect, the pay rates of all employees will be adjusted to the same corresponding step in the new pay table. (as added by Ord. #2004-4, June 2004)

4-308. Lump sum payments--employees in Step 7. (1) Eligibility. An employee whose pay rate is in Step 7 does not receive a step increase. Instead, he/she is eligible to receive a lump sum payment. To receive a lump sum payment:

(a) The employee must be on the City of Spencer payroll as of November 30th. Eligible employees who retire before November 30th will receive a prorated portion of the payment based on the portion of the year actively employed;

(b) The employee's pay must have been adjusted to Step 7 before June 1 of the current year;

(c) The employee's job performance must be satisfactory; and

(d) The employee must not be subject to disciplinary action for violation of city policies as of November 30.

(2) Lump sum amount. The amount of lump sum payment is calculated by multiplying the employee's base hourly rate on November 30th times two thousand eighty (2,080) hours, then multiplied by three percent (3%).

(3) When paid. The lump sum payment is to be paid with the first payroll in December of each year.

(4) Tax withholding. Lump sum payments will be subject to standard tax withholding. (as added by Ord. #2004-4, June 2004)

4-309. Promotional increases. (1) Definition of promotion. Placement of an individual in a job which is in a pay grade that is higher than the individual's current pay grade will be considered a promotion. (Temporary job reassignments of less than six (6) months will not normally be considered a promotion.)

(2) Increase amount. At the time of promotion, the individual's salary is to be adjusted to reflect the increased demands and responsibility of the new position. Normally, the employee's pay rate will be increased to the step rate in the higher pay grade that represents at least a three percent (3%) increase over his/her current pay rate. (Exception for police officers and firefighters: individuals without prior (respectively) law enforcement or firefighting experience promoted to police officer or firefighter would start at Step 1 even if this means a reduction in pay.) (as added by Ord. #2004-4, June 2004)

4-310. Temporary reassignment. Adjustments to pay rates of employees assigned temporarily (for less than six (6) months) to perform work of higher level jobs will be made at the discretion of management. (as added by Ord. #2004-4, June 2004)

4-311. Lateral job reassignments. Reassignment from one job to another in the same pay grade will be considered a lateral move. No immediate adjustment to pay will be made. (as added by Ord. #2004-4, June 2004)

4-312. Demotions or reassignment to a lower pay grade. Demotions occur when an employee is returned or transferred to a position in a lower pay grade. Additionally, employees may voluntarily ask to move to a job in a lower pay grade, perhaps through the job posting/bidding process. If an employee was promoted and subsequently returns to the original (lower) job, his/her pay rate would be adjusted to the step it would equal if the promotion had not occurred. Whether or not a reduction in pay should occur in other situations depends on consideration of the following:

(1) Was the demotion related to the employee's performance or to a reduction-in-force or organization change?

(2) How will the employee's pay rate compare with pay rates of other incumbents in the lower graded job or similar jobs?

(3) How long has the employee been in the former job?

(4) Where will the employee's pay rate fall in the new (lower) pay range?

(5) What has been the city's past practice in similar situations?

It is often sound practice to reduce the employee's pay rate to be consistent with rates of pay of other incumbents in the new job who possess similar skills and tenure. (as added by Ord. #2004-4, June 2004)

4-313. Re-classification of position. Re-classification of a job may occur if warranted by significant changes in job responsibilities. Section 4-312 above would apply to re-classification of a job to a lower pay grade. For an employee whose job was re-classified to a higher pay grade, the employee's pay would be adjusted to the step in the new pay grade corresponding to the employee's step in the "old" pay grade, e.g., pay of an employee in Step 2, Grade 3 whose job is re-classified to pay Grade 4 would be adjusted to Step 2, Pay Grade 4. Re-classification of a job to a higher pay grade normally would not result in any adjustment in pay unless the incumbent's pay rate is below the minimum of the new pay range. In such cases, the employee's pay rate is to be adjusted to Step 1 of the new pay range. (as added by Ord. #2004-4, June 2004)

4-314. Light duty assignments. The pay rates of employees assigned light duty position as part of a rehabilitation program will be reduced if the light duty jobs are in a lower pay grade than their regular jobs. The pay rate will be based on the specific job description, as determined by the city administrator. (as added by Ord. #2004-4, June 2004)

4-315. Funding. Implementation and continued funding of this compensation plan is subject to availability of revenues and fiscal budgetary approval by the board of mayor and aldermen. (as added by Ord. #2004-4, June 2004)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

[RESERVED FOR FUTURE USE]

¹Charter references: §§ 17-21.

TITLE 6

LAW ENFORCEMENT

[RESERVED FOR FUTURE USE]

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

1. FIRE CODE.

CHAPTER 1

FIRE CODE

SECTION

7-101. Fire code adopted.

7-101. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,¹ 2009 edition, as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been filed with the city recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (as added by Ord. #2010-2, June 2010)

¹Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate of good moral character.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-105. Action on application.
- 8-106. Residency requirement.
- 8-107. Applicants for certificate who have criminal record.
- 8-108. Only one establishment to be operated by retailer.
- 8-109. Where establishments may be located.
- 8-110. Retail stores to be on ground floor; entrances.
- 8-111. Limitation on number of retailers.
- 8-112. Sales for consumption on premises.
- 8-113. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-114. Inspection fee.
- 8-115. Violations.
- 8-116. [Repealed.]

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

¹Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

8-102. Application for certificate of good moral character.¹ Before any character certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen,² an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

Each application shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00). (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-103. Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

¹State law reference

Tennessee Code Annotated, § 57-3-208.

²State law reference

Tennessee Code Annotated, § 57-3-208 requires the certificate of good moral character to be signed by the mayor or a majority of the governing body.

8-104. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (Ord. #88-1, Jan. 1989, as amended by Ord. #__, April 1996, and replaced by Ord. #2005-2, Feb. 2005)

8-105. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police or city administrator for investigation and to the city attorney for review, each of whom shall submit his finding to the board of mayor and aldermen within thirty (30) days of the date each application was filed.

The board of mayor and aldermen may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and aldermen. (Ord. #88-1, Jan. 1989, modified, as replaced by Ord. #2005-2, Feb. 2005)

8-106. Residency requirement.¹ The City of Spencer establishes no residency requirement upon the applicant for a certificate of good moral character. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-107. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-108. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

¹State law reference

Tennessee Code Annotated, § 57-3-208(c).

8-109. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose, but in no event shall any establishment be located within two thousand feet (2,000') of a hospital, church or school, or any other place of public gathering, measured in a straight line¹ between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the hospital, school, church, or other place of public gathering. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-110. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-111. Limitation on number of retailers.² No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-112. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-113. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

¹State law reference

See *Watkins v. Naifeh*, 635 S.W.2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

²State law reference

Tennessee Code Annotated, § 57-3-208(c).

8-114. Inspection fee. The City of Spencer hereby imposes an inspection fee of five percent (5%) on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005, modified)

8-115. Violations. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge or city recorder to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (Ord. #88-1, Jan. 1989, as replaced by Ord. #2005-2, Feb. 2005)

8-116. [Repealed.] (Ord. #88-1, Jan. 1989, as repealed by Ord. #2005-2, Feb. 2005)

CHAPTER 2

BEER¹

SECTION

- 8-201. Sale of beer lawful; privilege.
- 8-202. Beer board created; duties and powers.
- 8-203. Mayor to preside; right to vote.
- 8-204. Oath of board members.
- 8-205. Quorum for board.
- 8-206. Recorder to be secretary of board.
- 8-207. Records of secretary.
- 8-208. Inspectors; enforcement.
- 8-209. Permit required for engaging in beer business.
- 8-210. Off-premises consumption only.
- 8-211. Privilege tax.
- 8-212. Verification of application; effect of false statement.
- 8-213. Suspension or revocation.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Investigative powers.
- 8-216. Show cause hearing; effect of revocation.
- 8-217. Posting of permit.
- 8-218. Permits not transferable.
- 8-219. Unlawful for manufacturer or distributor to sell to the unlicensed.
- 8-220. Sale to minors unlawful; employers regulated.
- 8-221. Procurement of alcoholic beverages for minor a misdemeanor.
- 8-222. Misrepresentation of age by minor.
- 8-223. Days and hours of operation.
- 8-224. Sale of beer on premises in direct connection with sleeping quarters prohibited.
- 8-225. Employment or interest of city employees in beer places prohibited.
- 8-226. Advertising signs and displays on premises.
- 8-227. Outside advertising.
- 8-228. Inspection and investigation; effect of refusal.
- 8-229. Applicant must agree to comply with all applicable laws.
- 8-230. Application to contain revocation agreement.
- 8-231. Zoning.
- 8-232. Beer board to approve or disapprove permits; recorder to issue license.

¹State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

- 8-233. Separate permit and license required for each location.
- 8-234. Penalties.
- 8-235. Possession of opened containers.
- 8-236. Littering with alcoholic beverage containers unlawful.
- 8-237. Issuance and retention of permits.
- 8-238. Confiscation and sale of unlicensed beer.
- 8-239. Allowing disorderly conduct.
- 8-240. Distance requirements.

8-201. Sale of beer lawful; privilege. It shall hereafter be lawful and is hereby declared to be a privilege to sell, store for resale, or distribute beer of alcoholic content of not more than five percent (5%) by weight, or other beverage of like alcoholic content, within the corporate limits of the City of Spencer, Tennessee subject to all of the regulations, limitations and restrictions hereinafter provided. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-202. Beer board created; duties and powers. There is hereby created a board, which shall be known and designated as the "beer board," hereinafter referred to in this chapter as the "board." Such board shall be composed of the members of the Board of Mayor and Aldermen of the City of Spencer, Tennessee, who shall vote with other members thereof.

It shall be the duty of the board to regulate and supervise the issuance of permits to store more than one (1) case, distribute and sell beer and other beverages of an alcoholic content of not in excess of five percent (5%) by weight to the persons and in the manner provided herein.

It is hereby declared that the sale of beer in the city is a privilege, and such board is hereby empowered, with complete discretion, to issue, revoke and suspend all licenses to sell beer in the city, and to perform such other duties and to have such other powers and authority as provided in this chapter. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-203. Mayor to preside; right to vote. The mayor shall preside over all meetings of the beer board and shall have one (1) vote. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-204. Oath of board members. The members of the beer board will be required to subscribe to a written oath of office to carry out and enforce Tennessee Code Annotated, title 57, ch. 5, as well as the terms and conditions of this chapter. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-205. Quorum for board. A majority of the members of the beer board shall constitute a quorum for any purpose. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-206. Recorder to be secretary of board. The recorder of the municipality shall be ex-officio secretary of the beer board, but he shall have no vote in its proceedings. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-207. Records of secretary. It shall be the duty of the secretary to keep a record of all the proceedings of the board and to keep on file in his office all original applications, as well as a duplicate of each permit issued by the board. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-208. Inspectors; enforcement. The beer board, acting for the city, may fix the compensation of inspectors for the purpose of enforcing this chapter and other laws, ordinances and rules regulating the distribution, possession, storage and sale of beer, or other beverages of like alcoholic content at wholesale or retail. Such inspector, if appointed, shall hold office by and in the discretion of the board. Members of the police department are fully authorized to enforce all provisions of this chapter at the option of the board in lieu of inspectors as herein above provided. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-209. Permit required for engaging in beer business. It shall be unlawful for any person, firm or corporation, joint stock company, syndicate, or association (all of which shall hereinafter in this chapter be designated as "person") to sell beer or to store beer for sale, possess more than one (1) case of beer, or distribute beer by weight or otherwise, without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Spencer. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-210. Off-premises consumption only. Permits issued for the retail sale of beverages coming within the provisions of this chapter shall be restricted to permits providing for off-premises consumption only. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-211. Privilege tax. There is hereby imposed on the business of selling, distribution or storing beer a privilege tax of one hundred dollars

(\$100.00). Any person engaged in the sale, distribution, or storage of beer shall remit the one hundred dollars (\$100.00) to the city before the permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000, modified)

8-212. Verification of application; effect of false statement. This application shall be verified by the affidavit of the applicant, made before a notary public or the city recorder, and if any false statement is made in any part of such application the permit or license granted or issued to the applicant shall be revoked by the beer board. The board shall appoint a committee consisting of the police department and the city recorder to investigate permit applications and within the second meeting of the board after the application is filed, to make a report of its investigation with its recommendations to the board. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-213. Suspension or revocation. All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the State Beer Act or any of the provisions of this chapter. A permit holder under indictment for violation of the law against prohibitions, sale, manufacture, or transportation of intoxicating liquors, gambling, drug laws, or of any crime involving moral turpitude may have his permit suspended by said beer board pending the outcome of such indictment. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-214. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-215. Investigative powers. The board created by this chapter is vested with full and complete power to investigate charges against any permit

holder to appear and show cause why his permit should not be suspended or revoked for the violations of the provisions of this chapter or the provisions of the State Beer Act.

The recorder and the beer board are hereby authorized to subpoena persons and records and to administer oaths and hear testimony in the enforcement of this chapter. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-216. Show cause hearing; effect of revocation. Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the State Beer Act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon permittee either by registered mail or by a member of the Police Department of the City of Spencer. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing the board shall publicly hear the evidence both in support of the charge and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the State Beer Act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-217. Posting of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-218. Permits not transferable. Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by purchase, otherwise of the business for which the permit was issued, and in either case, a new permit is required in the manner provided herein. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-219. Unlawful for manufacturer or distributor to sell to the unlicensed. No manufacturer or distributor of beer or other beverages of like alcoholic content shall sell to anyone except a licensed dealer holding a currently valid permit issued by the board. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-220. Sale to minors unlawful; employers regulated. No person engaging in the business regulated under this chapter shall make or permit to be made any sales or gifts to minors, or employ any person in the storage, sale, or distribution of any of such beverages except citizens of the United States. Neither the person engaging in such business nor any person employed by him shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor, or any crime involving moral turpitude within the last ten (10) years. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-221. Procurement of alcoholic beverages for minor a misdemeanor. It is hereby declared to be a misdemeanor, punishable as any other misdemeanor, for any adult person to buy or procure beer or any alcoholic beverage for or on behalf of any minor, and to deliver the same to said minor or any other minor. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-222. Misrepresentation of age by minor. It shall be unlawful, and a misdemeanor, for any person under eighteen (18) years of age knowingly to misrepresent his age in order to obtain or purchase beer or remain in a location where minors are not allowed. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-223. Days and hours of operation. No person shall sell or furnish, gratuitously or otherwise, to any person beer or other beverages of like alcoholic content, from 12:00 A.M. on Sunday morning until 12:00 P.M. (noon) on Sunday. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-224. Sale of beer on premises in direct connection with sleeping quarters prohibited. Except as hereinafter provided, no beer or other beverage of like alcoholic content shall be sold on premises in direct connection with which sleeping quarters are provided. Within the meaning of this section, sleeping quarters shall be considered as being in direct connection with the premises upon which the sale is made when the sleeping quarters are in the same room, or when any interior passageway, door, hall, stairway or other interior connection or a combination thereof, is available and is used in going to or from the place where such sale is made to such sleeping quarters. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-225. Employment or interest of city employees in beer places prohibited. It is hereby declared to be unlawful for any member of the Police or Fire Departments of the City of Spencer, or any other city employee, without a special permit from the board, to work at any place where beer is sold or dispensed under this chapter, or for any such city employee to have any interest,

direct or indirect, in such business. (Ord. #93-2, _____, as replaced by Ord. #2000-1, April 2000)

8-226. Advertising signs and displays on premises. No person authorized to sell beer or other beverages of like alcoholic content at any retail may erect or maintain any outside signs, advertising or displays located upon or attached to such buildings or premises for the purpose of advertising beer or beverages of like alcoholic content; provided, however, that each retail permittee is hereby allowed and permitted to erect and maintain one (1) sign on the outside of such building or premises, such sign bearing only the word "beer" and not exceeding the maximum dimension of thirty-six inches by eight inches (36" x 8"); provided further, however, that this provision shall not be construed to prohibit the erection and maintenance of advertising signs and displays placed or located within or inside the building and premises on which such beverages are sold at retail. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-227. Outside advertising. It shall be unlawful for any person, firm, or corporation to place or maintain any outdoor advertisement of beer or any other alcoholic beverages upon any sign, billboard, post, building, or other place within the corporate limits of the City of Spencer. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-228. Inspection and investigation; effect of refusal. The place of business and premises of the holder of any license for the distribution or sale of beverages regulated in this chapter shall be open to inspection and investigation by inspectors or police officers designated under § 8-208 hereof, at any time such place is open for business, and any refusal by the holder of such license, or by his agents, servants or employees to permit any such officer to enter upon, inspect and investigate any house, building or room wherein business authorized by any permit issued by the beer board created in § 8-202 is conducted, within the hours that such house, building or room is open for business, shall be unlawful and a misdemeanor.

The conviction of such holder, or of any agent, servant or employee of such holder, of a violation of the provisions of this section shall also be a sufficient ground, reason and cause for the revocation of the permit and license of such holder. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-229. Applicant must agree to comply with all applicable laws. Every applicant for a beer permit and license must agree in his application to comply with all laws of the State of Tennessee, the United States, and all ordinances of the City of Spencer regulating the handling of beer. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-230. Application to contain revocation agreement. All applications for a beer permit and license shall contain an agreement that the beer board may revoke or suspend the permit and license issued under the provisions of this chapter. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-231. Zoning. No beer permit or license shall be issued for the conduct of business at any point or place in the corporate limits of the City of Spencer unless such place is zoned for, or authorized to be used for, commercial or other purposes corresponding to the character of the business contemplated herein. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-232. Beer board to approve or disapprove permits; recorder to issue license. Beer permits shall be approved or disapproved by the beer board created in § 8-202, and if approved, a license shall be issued by the city recorder in a manner similar to the issuance of other licenses. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-233. Separate permit and license required for each location. A separate permit and license shall be obtained for each location at which and from which any applicant is to distribute or sell legalized beer or other beverages of like alcoholic content. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-234. Penalties. In addition to other penalties provided in this chapter, any person violating the provisions of this chapter shall be guilty of a misdemeanor, and may be tried in Van Buren County General Sessions and cited to the beer board and may have his permit suspended or revoked.

A citation before the beer board and suspension or revocation of permit in addition to trial and conviction of the misdemeanor shall not constitute double jeopardy. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-235. Possession of opened containers. In order that there may be no public consumption of beverages regulated hereby, and that such may not be consumed in automobiles or other conveyances, either public or private, it is hereby declared to be unlawful and a misdemeanor for any person to possess in any public place, or in any automobile or other conveyance upon the streets and alleys of the City of Spencer, any opened container of any such beverage. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-236. Littering with alcoholic beverage containers unlawful. It shall be unlawful for any person to place or abandon, upon the public streets, parks or ways within the City of Spencer, or upon private properties

immediately adjacent to and in clear view of any public park, street or way, any carton, can, bottle, cut or other container used for dispensing beverages regulated hereby. (Ord. #69-11, July 1969, as replaced by Ord. #2000-1, April 2000)

8-237. Issuance and retention of permits. In order to protect the general welfare and morals of the citizens of the City of Spencer, Tennessee, permits issued hereunder shall only be issued to grocery stores, convenience markets, supermarkets, and pharmacies, legitimately operated and properly licensed in accordance with any and all ordinances, statutes, laws and regulations of the City of Spencer, Van Buren County, the State of Tennessee, or the United States of America. In order to qualify for and to retain a license or permit for the sale of beer any business described herein above must further meet the following criteria:

(1) Have and maintain an inventory in the minimum amount of three thousand five hundred dollars (\$3,500.00) at wholesale value, exclusive of tobacco, gasoline, and beer.

(2) Be operated at all times in a lawful manner, with no loitering, on-premises consumption of alcohol, breaches of the peace, lewd or indecent behavior, altercations, carrying of weapons, other violations of any ordinance or statute, or public nuisances of any kind permitted on or about the premises.

(3) Meet at the time of the application and at all times thereafter all of the criteria set out in the application and the other ordinances of this section. (Ord. #93-2, __, as replaced by Ord. #2000-1, April 2000)

8-238. Confiscation and sale of unlicensed beer. Whenever any person shall be found in possession of more than one (1) case of beer without a license, the law enforcement officers of the city are hereby empowered to confiscate all of such beer in possession of such party except one (1) case, and within a reasonable time shall advertise such beer for sale by posted notice for a period of ten (10) days at the city hall. Such notice shall contain the amount of beer sold, the terms of the sale, the day and hour of the sale and the place of the sale. At the time so advertised in the posted notice, the city recorder shall auction such beer at the place and time set out in the notice, to be sold to the highest and best bidder. In no event shall such beer be sold to any party who does not possess the necessary permit and license. All money derived from such sale shall be placed in the general fund of the city, to be used as such moneys are used in the budget. (Ord. #93-2, __, as replaced by Ord. #2000-1, April 2000)

8-239. Allowing disorderly conduct. It shall be unlawful for the permittee hereunder, his agent or employee, to cause or allow on the premises any disorderly conduct. (as added by Ord. #2000-1, April 2000)

8-240. Distance requirements. One thousand feet (1,000') from any school or church. Five hundred feet (500') from places of public gathering such as but not limited to: parks, fair grounds, community cemeteries, etc. To be measured in a straight line method from front entrance to front entrance. (as added by Ord. #2000-1, April 2000)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. POOL ROOMS.
2. CABLE TELEVISION.
3. ADULT-ORIENTED ESTABLISHMENTS.

CHAPTER 1

POOL ROOMS

SECTION

- 9-101. Hours of operation regulated.
9-102. Loitering prohibited.

9-101. Hours of operation regulated. (1) From Mondays at 12:01 A.M. through Fridays at 12:01 A.M., no pool hall, pool room or other like establishment shall operate, be open for business, or have patrons on the premises from the hours of 10:00 o'clock P.M. through 9:00 o'clock A.M., inclusive of said times;

(2) From Fridays at 12:01 A.M. until Sundays at 12:01 A.M., no pool hall, pool room or other like establishment shall operate, be open for business, or have patrons on the premises from the hours of 12:00 o'clock P.M. through 9:00 o'clock A.M., inclusive of said times;

(3) On Sundays at 12:01 A.M. through 12:00 o'clock P.M., no pool hall, pool room or other like establishment shall operate, be open for business, or have patrons on the premises.

(4) There shall be no operation of said businesses from 2:00 A.M. on Sunday morning until 7:00 A.M. Monday. (Ord. #89-2, June 1989, as amended by Ord. #____, July 2003)

9-102. Loitering prohibited. It shall be unlawful for any operator, manager, proprietor or other person in charge of billiard hall(s) to permit minors to be present on the premises of such establishments, it being hereby made the duty and responsibility of said persons in charge of pool halls to prevent the loitering of minors at said places except as hereinafter provided. Persons convicted of violations of this chapter shall be guilty of a misdemeanor for which the penalty of not more than a fine of \$50.00 shall be imposed.

¹Municipal code references

Liquor and beer regulations: title 8.

This section shall not be applied in the case of a minor who shall have in his possession at the time of his presence at a pool hall a written consent from his parent authorizing him to enter into a pool hall on the day and date of which such minor person shall be found at such place. (Ord. #__, March 1964)

CHAPTER 2

CABLE TELEVISION

SECTION

9-201. To be furnished under franchise.

9-201. To be furnished under franchise. Cable television service shall be furnished to the Town of Spencer and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Spencer and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #80-3 dated November 13, 1980 in the office of the town recorder.

CHAPTER 3

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-301. Definitions.
- 9-302. License required.
- 9-303. Application for license.
- 9-304. Standards for issuance of license.
- 9-305. Permit required.
- 9-306. Application for permit.
- 9-307. Standards for issuance of permit.
- 9-308. Fees.
- 9-309. Display of license or permit.
- 9-310. Renewal of license or permit.
- 9-311. Revocation of license or permit.
- 9-312. Hours of operation.
- 9-313. Responsibilities of the operator.
- 9-314. Prohibitions and unlawful sexual acts.
- 9-315. Location restrictions.
- 9-316. Penalties and prosecution.

9-301. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(1) "Adult-oriented establishment" shall include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(2) "Adult bookstore" means an establishment receiving at least twenty percent (20%) of its gross sales from the sale or rental of books, magazines, periodicals, videotapes, DVDs films and other electronic media which are distinguished or characterized by their emphasis on matter depicting, describing

or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(3) "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting materials having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, for observation by any means by patrons therein.

(4) "Adult mini-motion picture theater" means an enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by any means by patrons therein.

(5) "Adult cabaret" is defined to mean an establishment which features as a principle use of its business, entertainers and/or waiters and/or bartenders and/or any other employee or independent contractor, who expose to public view of the patrons within said establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie or latex covering. Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers, private dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the City of Spencer, Tennessee.

(7) "Employee" means all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(9) "Adult-entertainment" means any exhibition of any adult-oriented motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the Internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (as added by Ord. #2015-5, Oct. 2015)

9-302. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Spencer without first obtaining a license to operate issued by the municipality.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this chapter must submit an application for a license within one hundred twenty (120) days of the passage of this chapter on second and final reading. If a license is not issued within said one hundred twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

(6) No license may be issued for any location unless the premises are lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #2015-5, Oct. 2015)

9-303. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the City

Recorder of the City of Spencer. The application shall be filed in triplicate with and dated by this city official.

(2) The application for a license shall be upon a form provided by the city recorder. An applicant for a license including any partner or limited partner of the partnership applicant, and any officer or director of the corporate applicant and any stockholder holding more than five percent (5%) of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business (including but not limited to all holders of any interest in land of members of any limited liability company) shall furnish the following information under oath:

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past three (3) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the City of Spencer, or its environs, immediately preceding the date of the application.
- (m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and

address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city building inspector that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the City of Spencer, the city recorder shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence as to why his/her license should not be denied. The board shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the board of mayor and aldermen and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Van Buren County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city recorder. (as added by Ord. #2015-5, Oct. 2015)

9-304. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:
(i) The applicant shall be at least eighteen (18) years of age.

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-302 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-302 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the City of Spencer has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city recorder no later than twenty (20) days after the date of the application. (as added by Ord. #2015-5, Oct. 2015)

9-305. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments,"

no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city recorder. (as added by Ord. #2015-5, Oct. 2015)

9-306. Application for permit. (1) Any person desiring to secure a permit shall make application to the city recorder. The application shall be filed in triplicate with and dated by the city recorder.

(2) The application for a permit shall be upon a form provided by the city recorder. An applicant for a permit shall furnish the following information under oath

(a) Name and address, including all aliases.

(b) Written proof that the individual is at least eighteen (18) years of age.

(c) All residential addresses of the applicant for the past three (3) years.

(d) The applicant's height, weight, color of eyes, and hair.

(e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.

(f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

(g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two inches by two inches (2" x 2") of the applicant.

(i) The length of time the applicant has been a resident of the City of Spencer, or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the City of Spencer, the city recorder shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of

notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the city recorder. (as added by Ord. #2015-5, Oct. 2015)

9-307. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age.

(b) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been found to violate any provision of this chapter within five (5) years immediately preceding the date of the application.

(2) No permit shall be issued until the City of Spencer has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city recorder not later than twenty (20) days after the date of the application. (as added by Ord. #2015-5, Oct. 2015)

9-308. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half (1/2) of the fee shall be returned. (as added by Ord. #2015-5, Oct. 2015)

9-309. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, the Van Buren County Sheriff's Department, or any person designated by the board of mayor and aldermen. (as added by Ord. #2015-5, Oct. 2015)

9-310. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the

date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder and to the operator. The application for renewal shall be a form provided by the city recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(2) A license renewal fee of five hundred dollars (\$500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.

(3) If the City of Spencer is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the city recorder.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the city recorder. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder and to the employee. The application for renewal shall be upon a form provided by the city recorder and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

(5) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied one-half (1/2) of the fee shall be returned.

(6) If the City of Spencer is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city recorder. (as added by Ord. #2015-5, Oct. 2015)

9-311. Revocation of license or permit. (1) The city recorder shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the board of mayor and aldermen pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the board of mayor and aldermen shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Van Buren County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The city recorder, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator's license shall automatically and immediately revoke the license held by the operator. Such license shall thereby become null and void.

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #2015-5, Oct. 2015)

9-312. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the City of Spencer Police Department, the Van Buren County Sheriff's Department, or such other persons as the Mayor of Spencer may designate. (as added by Ord. #2015-5, Oct. 2015)

9-313. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by the City of Spencer upon demand at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employees and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make

the list available immediately upon demand of the City of Spencer at all reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures of other types of adult entertainment.

(8) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.

(9) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is regulated by the
City of Spencer Municipal Code.

Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. #2015-5, Oct. 2015)

9-314. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals of any other person.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #2015-5, Oct. 2015)

9-315. Location restrictions. Adult-oriented establishments are allowed only in an I-1 Industrial District. (as added by Ord. #2015-5, Oct. 2015)

9-316. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity that is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #2015-5, Oct. 2015)

TITLE 10

ANIMAL CONTROL

[RESERVED FOR FUTURE USE]

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. TOWN LAKE.
2. MISCELLANEOUS.
3. FIREARMS, WEAPONS AND MISSILES.

CHAPTER 1

TOWN LAKE

SECTION

11-101. Regulations.

11-101. Regulations. (1) The boating provisions previously passed² shall be in effect for boats to be used without motors only and all persons using boats shall have life preservers or cushions Coast Guard approved and one per person.

(2) No firearms will be allowed at town lake.

(3) Also the previous provisions applying to type of bait to be used shall also be in effect not to use minnows for bait in said lake.

(4) A fee of \$5.00 per year or \$1.00 per day for all persons between the ages of 8 years and 65 years old shall be paid to the recorder of the Town of Spencer, Tennessee before fishing shall be allowed.

(5) Also no swimming in lake and no dumping of trash or garbage on or near said lake or road leading from State Highway No. 111 to said lake.

(6) The gate to said lake will be closed each day at 8:00 P.M.

(7) Any violation to this section will be a misdemeanor and a fine of not less than twenty dollars (\$20.00) will be imposed. (Ord. #66, Jan. 1967)

¹Municipal code references

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

²Ord. #65-1 stated that it "will be specifically prohibited for swimming, boating or minnow fishing, with the exception that no motor powered boats may be used for fishing with worms or artificial bait."

CHAPTER 2**MISCELLANEOUS****SECTION**

11-201. Protection of war memorials.

11-201. Protection of war memorials. (1) It shall be unlawful for any person or persons to mar, deface, encroach upon, or otherwise injure a war memorial being erected in the court house yard at Spencer, Tennessee, just east of the Will building, in honor of Van Buren County Soldiers who gave their last full measure of devotion to their country's call.

(2) Any person or persons violating any of the provisions of this section shall be deemed, upon conviction, to be guilty of a misdemeanor and shall be fined not more than twenty dollars (\$20.00) and not less than ten dollars (\$10.00), and the cost of the cause to be taxed to the offending party or parties for the first offense, and not more than thirty dollars (\$30.00) and not less than fifteen dollars (\$15.00) for each subsequent offense, to which will be added to the cost of prosecution. (Ord. # __, May 1948)

CHAPTER 3

FIREARMS, WEAPONS AND MISSILES

SECTION

11-301. Handguns in municipal parks prohibited.

11-301. Handguns in municipal parks prohibited. (1) Any person authorized¹ to carry a handgun under Tennessee Code Annotated, § 39-17-1351, is prohibited from possessing any handgun while within the Spencer City Park that is owned or operated by the City of Spencer or any or its instrumentalities. This prohibition of handguns within any municipal park applies to the entire park, notwithstanding the provisions of Tennessee Code Annotated, § 39-17-1311(b)(1)(I).² However, this chapter does not prohibit lawful possession of any handgun in accordance with Tennessee Code Annotated, § 39-17-1311(b)(1)(A)-(H).³

(2) The City of Spencer shall display signs in prominent locations about the public recreational property, at least six inches (6") high and fourteen inches (14") wide, stating:

MISDEMEANOR. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF ELEVEN (11) MONTHS AND TWENTY-NINE (29) DAYS AND A FINE NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) FOR CARRYING WEAPONS ON OR IN PUBLIC RECREATIONAL PROPERTY.

¹Any person who is not authorized to carry a handgun under state law and who possesses a handgun in a park or other public area with the intent to go armed would be in possible violation of Tennessee Code Annotated, § 39-17-1307, which is a Class E felony.

²The state statute requires the prohibition of handguns to apply to the entire park. The statute does not mention the other recreational areas in this proviso.

³The state statute allows for the lawful possession of handguns in numerous circumstances, including but not limited to military personnel, civil officers, reserve officer training corps pupils and law enforcement officers in discharge of their official duties; private police employed by the municipality; persons who are either hunting on municipal land designated as open to hunting, traversing municipal property to gain access to hunting lands, conducting or attending a gun show, picking up or delivering passengers who do not use the weapon in any way, or a person permitted to sport or target shoot; or a security guard who meets the requirements of Tennessee Code Annotated, title 62, chapter 35.

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. ENERGY CONSERVATION CODE.
2. BUILDING CODE.
3. RESIDENTIAL CODE.
4. PLUMBING CODE.
5. MECHANICAL CODE.
6. FUEL GAS CODE.

CHAPTER 1

ENERGY CONSERVATION CODE¹

SECTION

- 12-101. Energy conservation code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations and penalty.

12-101. Energy code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Energy Conservation Code² 2009 edition, as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

12-102. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Spencer. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall

¹Municipal code reference

Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

have appointed or designated to administer and enforce the provisions of the energy code.

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-104. Violations and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (modified)

CHAPTER 2

BUILDING CODE

SECTION

- 12-201. Building code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations and penalty.

12-201. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Building Code,¹ 2009 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (as added by Ord. #2006-2, July 2006, and amended by Ord. #2010-2, June 2010)

12-202. Modifications. (1) Definitions. Whenever in the building code reference is made to the duties of a certain official named therein, that designated official of the City of Spencer who has duties corresponding to those of the named official in said codes shall be deemed to be the responsible official insofar as enforcing the provisions of the building code is concerned.

(2) Permit fees shall be as follows:

Total Valuation	Fee
\$1,000.00 and less	No fee, unless inspections required, in which case a \$15.00 fee for each inspection shall be charged
\$1,000.00 to \$50,000.00	\$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

\$50,000.00 to \$100,000.00	\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00
\$100,000.00 to \$500,000.00	\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00
\$500,000.00 and up	\$1,660.00 for the first \$500,000.00 plus \$2.00.00 for each additional thousand or fraction thereof
Moving fee	For moving of any building or structure, the fee shall be \$100.00
Refunds 50% - \$15.00 (as added by Ord. #2006-2, July 2006, replaced by Ord. #2010-2, June 2010, and amended by Ord. #____, Aug. 2013)	

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2006-2, July 2006)

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2006-2, July 2006)

CHAPTER 3

RESIDENTIAL CODE

SECTION

- 12-301. Residential code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit fees.
- 12-304. Violations and penalty.

12-301. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,¹ 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code. (as added by Ord. #2006-2, July 2006, and amended by Ord. #2010-2, June 2010)

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2006-2, July 2006)

12-303. Permit fees. Schedule of fees are as provided in related codes for building, mechanical, plumbing, and fuel gas. (as added by Ord. #2006-2, July 2006)

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2006-2, July 2006)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 4

PLUMBING CODE¹

SECTION

- 12-401. Plumbing code adopted.
- 12-402. Modifications.
- 12-403. Available in recorder's office.
- 12-404. Violations and penalty.

12-401. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,² 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (as added by Ord. #2006-2, July 2006, modified)

12-402. Modifications. (1) Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen. Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code.

- (2) Permit fees. The schedule of permit fees are as follows:
- | | |
|----------------------|--------------|
| Permit fee | \$15.00 |
| Plumbing fixture fee | \$ 3.50 each |

A plumbing fixture is defined as a receptacle or device that is either permanently or temporarily connected to the water distribution system and demands a supply of water therefrom; discharges waste water, liquid-borne waste material or sewage either directly or indirectly to the drainage system of

¹Municipal code references
 Cross connections: title 18.
 Street excavations: title 16.
 Wastewater treatment: title 18.
 Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

the premises; or requires both a water supply connection and a discharge to the drainage system of the premises. (as added by Ord. #2006-2, July 2006)

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2006-2, July 2006)

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2006-2, July 2006)

CHAPTER 5

MECHANICAL CODE

SECTION

- 12-501. Mechanical code adopted.
- 12-502. Permit fees.
- 12-503. Available in recorder's office.
- 12-504. Violations and penalty.

12-501. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for mechanical systems using prescriptive and performance-related provisions, the International Mechanical Code,¹ 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (as added by Ord. #2006-2, July 2006, modified)

12-502. Permit fees. Section 106.5.2, Fee Schedule, is amended as follows:

Permit fee:	\$15.00
Mechanical unit:	\$ 3.50

(as added by Ord. #2006-2, July 2006)

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2006-2, July 2006)

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2006-2, July 2006)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 6

FUEL GAS CODE

SECTION

- 12-601. Fuel gas code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

12-601. Fuel gas code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing regulations for fuel gas systems and gas-fired appliances using prescriptive and performance-related provisions, the International Fuel Gas Code,¹ 2009 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the fuel gas code. (as added by Ord. #2006-2, July 2006, modified)

12-602. Modifications. (1) Definitions. Whenever in the fuel gas code when reference is made to the duties of a certain official named therein, that designated official of the City of Spencer who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the fuel gas code are concerned.

(2) Permit fees. The schedule of permit fees shall be as follows:

Permit fee	\$10.00
Gas fixture fee	\$ 3.50

(as added by Ord. #2006-2, July 2006)

12-603. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fuel gas code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #2006-2, July 2006)

12-604. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fuel gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2006-2, July 2006)

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER

1. MISCELLANEOUS.
2. SLUM CLEARANCE.
3. JUNKYARDS.
4. DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city administrator or public officer to cut such vegetation when it has reached a height of over one foot (1'). (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

13-104. Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.

(2) Limitation on application. The provisions of this section shall not apply to any parcel of property upon which an owner-occupied residence is located.

(3) Designation of public officer or department. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(4) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the City of Spencer Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;

(b) The person, office, address, and telephone number of the department or person giving the notice;

(c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the city; and

(d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.

(5) Clean-up at property owner's expense. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be

assessed against the owner of the property. Upon the filing of the notice with the office of the Register of Deeds in Van Buren County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the city administrator within ten (10) days following the receipt of the notice issued pursuant to subsection (4) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (5) above may seek judicial review of the order or act. The time period established in subsection (4) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the city administrator or public officer and dispose of such animal in such manner as the city administrator or public officer shall direct. (Ord. #68-4, June 1968, as replaced by Ord. #2004-3, May 2004)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and

offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (Ord. #5, May 1963, as replaced by Ord. #2004-3, May 2004)

13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2004-3, May 2004)

CHAPTER 2

SLUM CLEARANCE

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. Initiation of proceedings; hearings.
- 13-204. Orders to owners of unfit structures.
- 13-205. When public officer may repair, etc.
- 13-206. When public officer may remove or demolish.
- 13-207. Lien for expenses; sale of salvaged materials; other powers not limited.
- 13-208. Basis for a finding of unfitness.
- 13-209. Service of complaints or orders.
- 13-210. Enjoining of enforcement of orders.
- 13-211. Additional powers of public officer.
- 13-212. Powers conferred are supplemental.
- 13-213. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq. the board of mayor and aldermen finds that there exist in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (as added by Ord. #2004-3, May 2004)

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Municipality" shall mean the City of Spencer, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #2004-3, May 2004)

13-203. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (as added by Ord. #2004-3, May 2004)

13-204. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the

time specified in the order, to remove or demolish such structure. (as added by Ord. #2004-3, May 2004)

13-205. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (as added by Ord. #2004-3, May 2004)

13-206. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, or to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (as added by Ord. #2004-3, May 2004)

13-207. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Van Buren County be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipality tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Chancery Court of Van Buren County by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to

impair or limit in any way the power of the City of Spencer to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #2004-3, May 2004)

13-208. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Spencer. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #2004-3, May 2004)

13-209. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Van Buren County, Tennessee, and such filing shall have the same effect as other lis pendens notices provided by law. (as added by Ord. #2004-3, May 2004)

13-210. Enjoining of enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the positing and service of the order of the public officer, such person shall file such bill in the court.

The remedy provide herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (as added by Ord. #2004-3, May 2004)

13-211. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #2004-3, May 2004)

13-212. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (as added by Ord. #2004-3, May 2004)

13-213. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2004-3, May 2004)

CHAPTER 3

JUNKYARDS

SECTION

13-301. Junkyards.

13-302. Violations and penalty.

13-301. Junkyards. All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (as added by Ord. #2004-3, May 2004)

13-302. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provisions of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #2004-3, May 2004)

CHAPTER 4

DISPOSAL OF WRECKED, JUNKED, OR ABANDONED VEHICLES

SECTION

- 13-401. Wrecked, junked, or abandoned vehicles prohibited.
- 13-402. Wrecked, junked, or abandoned vehicle defined.
- 13-403. Procedure for removal.
- 13-404. Notice.
- 13-405. Hearing.
- 13-406. Removal.
- 13-407. Storage of vehicles.
- 13-408. Expense of disposal charged to owner.
- 13-409. Penalty.
- 13-410. Delegation of authority.

13-401. Wrecked, junked, or abandoned vehicles prohibited. It shall be unlawful to park, store, or leave any motor or other vehicle as wrecked, junked, partially dismantled, or in an abandoned condition, on public or private property in the City of Spencer for a period of longer than fifteen (15) days unless it is in connection with a purpose or business enterprise lawfully situated and licensed. All such wrecked, junked, or abandoned vehicles are hereby declared to be public nuisances. (as added by Ord. #2004-3, May 2004)

13-402. Wrecked, junked, or abandoned vehicle defined. For the purposes of this chapter, a wrecked, junked, or abandoned vehicle shall mean a vehicle of any age that is damaged or defective in any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(1) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.

(2) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(3) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(4) Missing or partially or totally disassembled essential interior parts, including, but limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(5) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not

limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(6) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.

(7) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(8) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle. (as added by Ord. #2004-3, May 2004)

13-403. Procedure for removal. The owner of any such vehicle or the owner of the private property on which the same is located shall be responsible for its removal upon appropriate notice and the opportunity to be heard. Prior to commencing the hearing procedure set out in this chapter, notices shall be sent to the owner or resident of the property upon which the said vehicle is located stating that the condition of said vehicle has caused a violation of this chapter and that unless this violation is corrected within twenty-four (24) hours, procedures will be commenced to affect the removal of the vehicle. Such twenty-four (24) hour notice or one similar thereto shall also be provided the vehicle owner and any lien holders to the extent that their names and addresses may be reasonably ascertained after the city has first been apprised of such violation. If in the opinion of the mayor, designated public officer, an emergency situation exists, the vehicle may be immediately removed. (as added by Ord. #2004-3, May 2004)

13-404. Notice. If the twenty-four (24) hour preliminary notice does not accomplish the correction of the violation, the procedure hereinafter set out shall be invoked. A notice shall be directed to the owner of the vehicle and any lien holders, if known, and the owner of the premises where same is located at least two (2) days before the time for compliance therewith. It shall be sufficient service of notice if it is posted in a conspicuous place upon the premises affected and a copy is mailed to such owners and lien holders at their last known address, place of residence, or place of business. (as added by Ord. #2004-3, May 2004)

13-405. Hearing. Within two (2) days after the mailing or other service of said notice, the persons to whom the notices are directed, or their duly authorized agents, may file a written request for a hearing before the Board of Mayor and Aldermen of the City of Spencer. The hearing shall be held as soon as practicable after the filing of the request therefore and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing the city and the

persons to whom the notices have been directed may introduce such witnesses and evidence as is deemed necessary and proper by the board of mayor and aldermen. (as added by Ord. #2004-3, May 2004)

13-406. Removal. If the violation described in the notice has not been remedied within five (5) days of the mailing or service thereof, or in the event that a notice requesting a hearing is timely filed and the existence of the violation is affirmed by the board of mayor and aldermen after hearing, pursuant to the police power to do all things whatsoever necessary for promoting or maintaining the general welfare of the city or its inhabitants, said vehicle shall be removed and taken into possession by the City of Spencer. Any tow trucks or vehicles used for such removal, other than city vehicles, shall be covered by insurance in the form and extent of which shall be approved by the board of mayor and aldermen. (as added by Ord. #2004-3, May 2004)

13-407. Storage of vehicles. If the vehicle owner pays the city for all expenses involved in the removal and storage of same within ten (10) days of such removal, and indicates in writing that such vehicle will not be taken to a location where it will be in violation of § 13-401 of this chapter, possession shall be relinquished to such owner. If possession is not thus relinquished to the owner, the mayor shall sell any such vehicles after publication of notice thereof ten (10) days prior to the sale in a newspaper of general circulation in the city. (as added by Ord. #2004-3, May 2004)

13-408. Expense of disposal charged to owner. All costs and expenses incurred by the City of Spencer in carrying out the provisions of this chapter shall be and constitute a charge and lien against:

- (1) The owner of the vehicle;
- (2) The owner of the real property when it is determined that the vehicle belongs to said owner; and
- (3) The vehicle, until paid with interest to secure at the rate of six percent (6%) annually. (as added by Ord. #2004-3, May 2004)

13-409. Penalty. Any person violating any provision of this chapter shall be fined in accordance with state statute. (as added by Ord. #2004-3, May 2004)

13-410. Delegation of authority. The mayor is hereby authorized to designate the agency, or department, or public officer to implement the provisions of this chapter. (as added by Ord. #2004-3, May 2004)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

14-101. Created.

14-101. Created. (1) The planning commission is hereby created in accordance with Tennessee Code Annotated, § 13-4-101. Said planning commission shall consist of seven (7) members of which one (1) shall be the mayor of the municipality or a person designated by the mayor and one (1) shall be a member of the chief legislative body of the municipality elected by that body. The remaining five (5) members shall be appointed by the mayor. Terms of the appointive members shall be five (5) years, except for those first appointed whose terms shall be for one (1), two (2), three (3), four (4) and five (5) years respectively so that the term of one (1) member will expire each year.

(2) The planning commission shall have all the powers, duties, and responsibilities authorized for municipal planning commissions under Tennessee Code Annotated, title 13. (as added by Ord. #97-3, March 1998)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-202. Violations and penalty.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Spencer shall be governed by Ordinance #2006-1, titled "Zoning Ordinance, Spencer, Tennessee," and any amendments thereto.¹

14-202. Violations and penalty. Violations of the zoning ordinance shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Ordinance #2006-1, June 29, 2006, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. PARKING.
4. RULES OF THE ROAD AND OTHER TRAFFIC VIOLATIONS.
5. SPEED LIMITS.

CHAPTER 1

MISCELLANEOUS¹

SECTION

15-101. Weight limitations on Little Falls Road.

15-101. Weight limitations on Little Falls Road. (1) It appears necessary for the public health and safety of the residents of the Little Falls Road and West Cook Street areas and the residents of the City of Spencer, that a maximum total weight limitation of five (5) ton (10,000 pounds) be placed upon vehicles traveling said road.

(2) These said limitations shall not apply to any emergency vehicle, any school bus, any road construction equipment being operated in connection with repairs to property or town street, also included in this exception are vehicles making deliveries to residence on said street.

(3) Upon passage and a road sign being erected giving notice thereof, no person shall operate a vehicle with a gross weight in excess of the weight posted.

(4) Any person charged with violation of this section shall be subject to a fine of twenty-five dollars (\$25.00) and cost for such violation. Each

¹State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

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violation shall be deemed a separate offense for the purpose hereof. (Ord. #95-3, May 1995, as amended by Ord. #2000-2, Feb. 2001)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Interference with fire apparatus.

15-201. Interference with fire apparatus. It shall be punishable by a fine of \$10.00 for any vehicle to fail to yield right-of-way to members of fire department or fire apparatus in route to fire or to willfully interfere with operation at the scene of said fire. (Ord. #65-2, Jan. 1965)

CHAPTER 3

PARKING

SECTION

15-301. Parking within a fire plug.

15-302. Parking around courthouse square.

15-301. Parking within a fire plug. It shall be prohibited to park within fifteen (15) feet of any fire plug within the City of Spencer. Any violation of this section shall be punishable by a fine of ten dollars (\$10.00). (Ord. #65-3, Jan. 1965)

15-302. Parking around courthouse square. (1) All vehicular parking is prohibited on the public square surrounding the Van Buren County Courthouse between the hours of 10:00 P.M. and 5:00 A.M.

(2) Any person violating any of the provisions of this section shall, for each such offense, be punished by a fine of not less than \$2.00 nor more than \$50.00. In addition to the fine herein imposed, the City of Spencer may have such vehicle violating said section towed away and the person owning said vehicle, or responsible for said vehicle, will pay such towing charge as may be imposed by the person operating the towing service before regaining possession of the said vehicle. (Ord. #74-1, Aug. 1974)

CHAPTER 4**RULES OF THE ROAD AND
OTHER TRAFFIC VIOLATIONS****SECTION**

15-401. Adoption of state traffic statutes.

15-402. Compliance with financial responsibility law required.

15-403. Civil offense.

15-401. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, the City of Spencer adopts by reference as if fully set forth in this section the "Rules of the Road," "Equipment–Lighting Regulations" and "Financial Responsibility" as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, and 55-8-133 through 55-8-180. Additionally, the City of Spencer adopts Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, 55-9-101 through 55-9-107, 55-9-201 through 55-9-207, 55-9-212 and 55-9-213; 55-9-302 through 55-9-308, 55-9-401 through 55-9-410, 55-9-414, 55-9-601 through 55-9-606, 55-12-139 and 55-21-108 by reference as if fully set forth in this section. (as added by Ord. #2011-5, Sept. 2011)

15-402. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Tennessee Code Annotated, title 55, chapters 8 and 10, parts 1 to 5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled

in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent. (as added by Ord. #2012-2, March 2012)

15-403. Civil offense. (1) It is a civil offense to fail to provide evidence of financial responsibility pursuant to § 15-402. Any violation of § 15-402 is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by § 15-402 shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(2) On or before the court date, the person charged with a violation of § 15-402 may submit evidence of compliance with § 15-402 in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #2012-2, March 2012)

CHAPTER 5

SPEED LIMITS

SECTION

15-501. In general.

15-502. At intersections.

15-503. In school zones.

15-501. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which case the posted speed limit shall apply. (as added by Ord. #97-1, April 1997)

15-502. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (as added by Ord. #97-1, April 1997)

15-503. In school zones. (1) Pursuant to Tennessee Code Annotated, § 55-8-152, the city shall have the authority to enact special speed limits in school zones. Such special speed limits shall not be less than fifteen (15) miles per hour; shall be enacted based on an engineering investigation; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this section.

(2) In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving. (as added by Ord. #97-1, April 1997, modified)

TITLE 16**STREETS AND SIDEWALKS, ETC¹****CHAPTER****1. SIDEWALKS.****CHAPTER 1****SIDEWALKS****SECTION**

16-101. Bicycles, etc. on sidewalks.

16-101. Bicycles, etc. on sidewalks. (1) It shall be unlawful for any person or persons to use and/or occupy any of the sidewalks within the corporations limits of the Town of Spencer, Tennessee with any bicycle, scooter or similar vehicles or toys for business or recreation.

(2) Any person or persons using said sidewalks in violation of (1) above shall be deemed upon conviction by the recorder of the corporation to be guilty of a misdemeanor, and shall be fined not less than one dollar (\$1.00) and not more than five dollars (\$5.00) for the first offense and not less than two dollars (\$2.00) and not more than ten dollars (\$10.00) for each subsequent offense.

(3) Baby buggies or carriages of any kind used in the transportation of babies on said sidewalks, accompanied by the parents or friends of the family, whether one or more, shall not come within the provisions of (1) above, same not being considered dangerous to the use of said sidewalks of pedestrians.

(4) In addition to said fine said persons or person violating the provisions of this section shall upon conviction as aforesaid pay the cost incident to the arrest and conviction of such person or persons found guilty of the violations of this section. (Ord. #__, Aug. 1947)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

TITLE 17

REFUSE AND TRASH DISPOSAL¹

[RESERVED FOR FUTURE USE]

¹Municipal code reference
Property maintenance regulations: title 13.

TITLE 18

WATER AND SEWERS

CHAPTER

1. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
2. WATER AND SEWER RATES.

CHAPTER 1

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

- 18-101. Background and purpose, limitations, record keeping duration, omissions and objectives.
- 18-102. Definitions.
- 18-103. Compliance with Tennessee Code Annotated.
- 18-104. Regulated.
- 18-105. Statement required.
- 18-106. New installations.
- 18-107. Existing installations.
- 18-108. Inspections.
- 18-109. Right of entry for inspections.
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- 18-111. Required devices.
- 18-112. Testing of devices.
- 18-113. Non-potable supplies.
- 18-114. Penalty; discontinuance of water supply.
- 18-115. Provision applicable.
- 18-116. Conflicting provisions.

18-101. Background and purpose, limitations, record keeping duration, omissions and objectives. (1) In order for the Spencer Utility Department to serve the public and to comply with the regulations of the Environmental Protection Agency and the Tennessee Department of Environment and Conservation and other state and federal regulations, the Spencer Utility Department must establish a cross-connection program to protect the public's water supply.

The Spencer Utility Department is run for the benefit of all present and future customers, and while no customer shall intentionally be treated unfairly, no customer shall be treated in a way that compromises the interests of other current and future customers.

(2) **Limitations.** The Spencer Utility Department is subject to various city, county, state, federal, or other governmental agency requirements and has

no discretion to provide service in a manner which would violate such regulations or requirements.

(3) Record keeping duration. All records regarding cross-connections shall be kept indefinitely.

(4) Omissions. In the absence of specific rules or policies, the governing board in accordance with its usual and customary practices shall make the disposition of situations involving service. This chapter sets forth uniform requirements for the protection of the public water system from possible contaminations, and enables the water system to comply with all applicable local, state, and federal laws, regulations, standards, or requirements, including the Safe Drinking Water Act of 1996, Tennessee Code Annotated, § 68-221-720 and the Rules and Regulations for Public Water Systems and Drinking Water Quality issued by the Tennessee Department of Environment and Conservation, Division of Water Supply.

(5) Objectives. The objectives of this chapter are to:

(a) Protect the public potable water system of Spencer Utility Department from the possibility of contamination or pollution by isolating within the customer's internal distribution system such contaminants or pollutants that could backflow or backsiphon into the public water system;

(b) Promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping system;

(c) Provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (Ord. #65-4, March 1965, as replaced by Ord. #2011-1, Jan. 2011)

18-102. Definitions. The following words, terms, and phrases shall have the meanings ascribed to them in this section when used in the interpretation and enforcement of this chapter.

(1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two inches (2"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two (2") inches.

(2) "Annually." Shall mean twelve (12) months.

(3) "Atmospheric vacuum breaker" shall mean a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(4) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the public water system. These

auxiliary waters may include water from another purveyor's public water system, any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters, or industrial fluids.

(5) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross-connection.

(6) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, stream and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(7) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any other source other than its intended source, caused by the reduction of pressure in the potable water system.

(8) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(9) "Contamination." The introduction or admission of any foreign substances that cause illness or death.

(10) "Contaminant." Any substance introduced into the public water system that will cause illness or death.

(11) "Cross-connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross-connections.

(12) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(13) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(14) "Failed" shall mean the status of a backflow prevention assembly determined by a performance evaluation based on the failure to meet all minimums set forth by the approved testing procedure.

(15) "Fire protection systems" shall be classified in six (6) different classes in accordance with AWWA Manual M14--Second Edition 1990. The six (6) classes are as follows:

Class 1 shall be those with direct connections from public water mains only - no pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

Class 3 shall be those with direct connections from public water supply mains, plus one (1) or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2 with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells, mills or other industrial water systems, or where antifreeze or other additives are used.

Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(16) "Hazard, health." A cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness, and spread disease also known as a high hazard.

(17) "Hazard, non-health." A cross-connection or potential cross-connection involving any substance that would not be a health hazard but would constitute a nuisance or be aesthetically objectionable if introduced into the public water supply also known as low hazard.

(18) "Interconnection" shall mean any system of piping or other arrangements whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(19) "Manager" shall mean the manager of the water system or his duly authorized deputy, agent or representative.

(20) "Passed." The status of a backflow prevention assembly determined by a performance evaluation in which the assembly meets all minimums set forth by the approved testing procedure.

(21) "Performance evaluation." An evaluation of an approved double check valve assembly or reduced pressure principle assembly (including approved detector assemblies) using the latest approved testing procedures in determining the status of the assembly.

(22) "Person" shall mean any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(23) "Pollutant." A substance in the public water system that would constitute a non-health hazard and would be aesthetically objectionable if introduced into the public water supply.

(24) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(25) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(26) "Public water supply" shall mean the water system which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(27) "Reduced pressure principle backflow prevention device" shall mean any assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valves.

(28) "Service connection" shall mean the point of delivery to the customer's water system; the terminal end of a service connection from the public water system where the water department loses jurisdiction and control over the water. "Service connection" shall include connections to fire hydrants and all other temporary or emergency water service connections made to the public water system.

(29) "Survey." An evaluation of a premise by a water system performed for the determination of actual or potential cross-connection hazards and the appropriate backflow prevention needed.

(30) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e. the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (Ord. #65-4, March 1965, as replaced by Ord. #2011-1, Jan. 2011)

18-103. Compliance with Tennessee Code Annotated. The Spencer Utility Department shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Spencer Utility Department shall comply with Tennessee Code Annotated, § 68-221-711(6), as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses. (Ord. #65-4, March 1965, as replaced by Ord. #2011-1, Jan. 2011)

18-104. Regulated. (1) No person shall cause a cross-connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and operation of same has been approved by the Tennessee Department of Environment and Conservation and the operation of such cross-connection, auxiliary intake, bypass, or interconnection is at all times under the direct supervision of the cross-connection control manager/coordinator of the public water system.

(2) No water service connection to any premise shall be installed or maintained by the Spencer Utility Department unless the water supply system is protected as required by state laws and this chapter. Service of water to any premises shall be discontinued by the utility system if a backflow prevention device required by this chapter is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(3) It shall be unlawful for any person to cause a cross-connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection is at all times under the direction of the manager of the Spencer Utility Department.

(4) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the

potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(5) An approved backflow prevention assembly shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(6) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard to determine the type of backflow prevention assembly, if any, that will be required, and to notify the owners in writing of the required assembly and the installation criteria. All required assemblies shall be installed and operational prior to the initiation of water service.

(7) For existing premises, personnel from the water system shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter.

(8) For existing installations, the cross-connection manager/coordinator may cause water service to be discontinued until such time as the customer complies with all requirements of state law and this chapter. (Ord. #65-4, March 1965, as replaced by Ord. #2011-1, Jan. 2011)

18-105. Statement required. Any person whose premises are supplied with water from Spencer Utility Department, and who also has on the same premises a separate source of water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with Spencer Utility Department a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted on the premises. (Ord. #65-4, March 1965, as replaced by Ord. #2011-1, Jan. 2011)

18-106. New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Spencer Utility Department for approval. (as added by Ord. #2011-1, Jan. 2011)

18-107. Existing installations. No alteration, repair, testing or change shall be made on any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the Spencer Utility Department. (as added by Ord. #2011-1, Jan. 2011)

18-108. Inspections. The manager or his designated agent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspection and re-inspection shall be based on potential health hazards involved, and shall be established by the Spencer Utility Department in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. Residential sites shall be inspected upon any suspicion of cross-connection. (as added by Ord. #2011-1, Jan. 2011)

18-109. Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Spencer Utility Department public water system for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections and shall be grounds for disconnection of water service. (as added by Ord. #2011-1, Jan. 2011)

18-110. Correction of violations. (1) Any person found to have cross-connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, an appropriate amount of time shall be assigned by the manager or his representative, but in no case shall the time for corrective measures exceed forty-five (45) days with the exception of high risk high hazards which will be no more than fifteen (15) days.

(2) Where cross-connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard with the immediate possibility of contaminating the public water system, the Spencer Utility Department shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expedient steps shall be taken to disconnect the public water system from the on-site piping systems unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two (2) systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (as added by Ord. #2011-1, Jan. 2011)

18-111. Required devices. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

- (a) Impractical to provide an effective air-gap separation;
- (b) The owner/occupant of the premises cannot or is not willing to demonstrate to the utility that the water use and protection features of the plumbing are such as to pose no threat to the safety or potability of the water;
- (c) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (d) There is likelihood that protective measures may be subverted, altered or disconnected;
- (e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;
- (f) The plumbing from a private well enters the premises served by the public water system, then the utility shall require the use of an approved protective device on the water service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein;
- (g) Establishments containing potential cross-connection hazards as listed in Appendix A.¹

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems and swimming pools with no permanent plumbing installed) approved by the Tennessee Department of Environment and Conservation and the Spencer Utility Department, as to manufacture, model, size and application. The method of installation of backflow

¹Included at the end of this chapter.

prevention devices shall be approved by the Spencer Utility Department prior to installation and shall comply with the criteria set forth in this chapter. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical buildings, construction sites, all fountains, wells, water softeners and other treatment systems, swimming pools, lawn irrigation systems and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by Spencer Utility Department as needing protection:

(a) Class 1, Class 2, Class 3 fire protection systems shall generally require a double check valve assembly except:

(i) A double check detector shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention assembly shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping system;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5, and Class 6 fire protection systems shall require reduced pressure backflow prevention assemblies.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention assembly shall be required.

(d) Suggested: Swimming pools with no permanent plumbing and only filled with hoses will require a hose bibb vacuum breaker be installed on the faucet used for filling and filling with an appropriate air-gap.

(4) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(5) Approved backflow prevention assemblies and methods. All backflow prevention assemblies shall be fully approved and listed as acceptable by the State of Tennessee as to manufacture, model, size, application, orientation, and alterations. The installed assembly must have a status of passed determined by performance evaluations to suffice as an approved backflow prevention assembly. The method of installation of backflow

prevention devices shall comply with installation criteria set forth by this chapter and the State of Tennessee. Installation shall be at the sole expense of the owner or occupant of the premises.

The type of protective assembly required by this chapter shall depend on the degree of hazard that exists. Reduced pressure principle assemblies (and/or detector) may be used for health hazards and non-health hazards. Double check valve assemblies (and/or detector) may only be used for non-health hazards and is limited to Class 1-3 fire systems only.

Pressure vacuum breakers, spill-resistant vacuum breakers, and atmospheric vacuum breakers are not allowed for premise isolation and will not satisfy the requirements of this chapter for adequate backflow prevention due in part to the inability to protect against backpressure.

(6) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this chapter by a person approved by the Spencer Utility Department who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) An approved backflow prevention assembly shall be installed on each service line to a customer's premises and in all cases, before the first branch line leading off the service line, if it is impractical or easily altered to provide an effective air-gap separation, when any of the following conditions exist.

(c) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device (except hose bibb vacuum breakers). All fittings shall be of brass construction, unless otherwise approved by the water system, and shall permit direct connection to department test equipment.

(d) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(e) All devices shall be placed in the upright position in a horizontal run of pipe.

(f) Devices shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(g) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either:

- (i) The floor;
- (ii) The top of opening(s) in the enclosure; or

(iii) Maximum flood level, whichever is higher. Maximum height above the floor surface shall not exceed sixty inches (60").

(h) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removal enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(i) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(j) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(k) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(l) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(m) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(n) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/back-siphonage through the drain may occur.

(o) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by an AWWA approved company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing, and shall be approved by the water system. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosures shall be completely removable. Access for backflow prevention devices two and one-half inches (2 1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad as specified by the manufacturer, but in no case less than four inches

(4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of forty degrees (+40°) F with an outside temperature of negative thirty degrees (-30°) F and a wind velocity of one hundred fifteen (115) miles per hour.

(p) Where the use of water is critical to the continuance of normal operations or the protection of life, property, or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) device has been installed and the continuance of service is critical, the Spencer Utility Department shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the utility may require the installation of a duplicate device.

(q) The utility shall require the occupant of the premises to keep any backflow prevention devices working properly and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the Spencer Utility Department. Expense of such repairs shall be borne by the owner or occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective, shall constitute a violation of this chapter and shall be grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Spencer Utility Department. (as added by Ord. #2011-1, Jan. 2011)

18-112. Testing of devices. Assemblies shall be tested at least once in a twelve (12) month period (on or before three hundred sixty-five (365) days from last test) by the Spencer Utility Department by a qualified person possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A record of this test will be on file with the Spencer Utility Department and a copy of the report will be supplied to the customer. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. There will be no charge for annual testing, but retesting of failed devices will be the responsibility of the customer.

(1) If any test does not meet the minimum requirements set forth in the approved testing procedure, the assembly is deemed failed and does not suffice as an approved backflow prevention device. If conditions around the assembly do not allow the assembly to be tested, the assembly fails the assembly performance evaluation and is marked failed on test report. (Examples would include assembly is submerged, test cocks missing or plugged, relief valve continually discharging).

(2) Each location requiring an assembly will have a documented backflow prevention assembly. If the assembly at the address cannot be identified or is not the same, the water provider will be notified and a determination of which assembly is used for protection of the water system. (All areas that need protection will be listed by address and location along with the serial number of device)

(3) Assemblies must be tested when installed and after every repair. Backflow prevention assemblies on lawn irrigation systems must be tested when assemblies are placed in service after winterization (to prevent testing just prior to winterization). If lawn irrigation backflow assemblies are taken removed to winterize the system, upon startup of the system, the assemblies must be retested.

(4) Failure to maintain a backflow prevention assembly that is deemed passed shall be grounds for discontinuance of water service. The removal, bypassing, or altering of a protective device or installation, without the approval of the cross-connection control coordinator or designee, thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of this policy/chapter and the cross-connection control coordinator or designee.

Spencer Utility Department shall require the occupant of the premises to keep the backflow prevention assembly working properly and a status of passed. Repairs shall be made by qualified personnel acceptable to the water system within the time limits set forth by this chapter. Expense of such repairs shall be borne by the owner or occupant of the premises. The failure to maintain a backflow prevention assembly in proper working order and a status of passed shall be grounds for discontinuance of water service.

(5) The backflow prevention assembly must be tested after every repair and have a status of passed to be in compliance with this chapter.

(6) Cross-connection control coordinator or designee shall have the right to inspect and test any assemblies whenever it is deemed necessary. Water service shall not be disrupted to the assembly without the knowledge of the occupant of the premises.

(7) All performance evaluations must be performed with an annually certified test kit. (as added by Ord. #2011-1, Jan. 2011)

18-113. Non-potable supplies. (1) The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this chapter. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE FOR DRINKING

(2) The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color coding of pipelines, in accordance with Occupational Safety and Health Act (OSHA) guidelines, shall be required in locations where in the judgment of the utility, such coding is necessary to identify and protect the potable water supply.

(3) **Statement required.** Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Spencer Utility Department a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross-connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (as added by Ord. #2011-1, Jan. 2011)

18-114. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager will discontinue the public water supply service to any premises upon which there is found to be a cross-connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross-connection, auxiliary intake, bypass or interconnection or noncompliance with this chapter has been eliminated, corrected, or approved backflow protection is installed within time limits set forth by this chapter. (as added by Ord. #2011-1, Jan. 2011)

18-115. Provision applicable. The requirements contained in this chapter shall apply to all premises served by the Spencer Utility Department and are hereby made part of the conditions required to be met for the Spencer Utility Department to provide water services to any premises. The provisions of this chapter shall be rigidly enforced since it is essential for the protection of the

public water distribution system against the entrance of contamination. Any person aggrieved by the action of the chapter is entitled to a due process hearing upon timely request. (as added by Ord. #2011-1, Jan. 2011)

18-116. Conflicting provisions. If any provision of this chapter is found to conflict with any provision of any other ordinance, then the provision of this chapter shall control. That should any part, or parts of this chapter be declared invalid for any reason, no other part, or parts, of this chapter shall be affected thereby. (as added by Ord. #2011-1, Jan. 2011)

Appendix A

Equipment posing significant risk of creating cross-connections

Establishments with equipment list will normally require premise isolation with a reduced pressure principle assembly depending on hazard unless otherwise found to have an appropriate air-gap.

Many devices or equipment below may be designed and constructed with approved air-gaps that would adequately protect the water system. However, the cross-connection control inspector should consider and make judgments on the amount of risk that the establishment poses to the distribution and not solely on the presence or absence of the devices, situations, or equipment listed below.

The following is an incomplete list of equipment normally requiring backflow prevention assemblies. It is to be noted that any connection with piping, equipment, or devices that contain or may contain substances that are pollutants or contaminants will require premises isolation.

Air-conditioning systems (using water for processing)

Aspirators

Air lines

Autoclaves and sterilizers

Auxiliary systems

Baptismal tanks

Bathtubs (hard piped)

Bedpan washers

Bidets

Booster pumps

Brine tanks, softeners

Boilers

Car wash equipment

Chemical feeders

Chillers

Chlorination equipment

Coffee urns

Commercial cookers

Condensers

Compressors

Cooling systems

Cooling towers

Culture vats

Cuspidor, dental

Developing equipment
Dishwashers (commercial)
Display fountains
Drinking fountains
Ejectors, steam or water
Extractors
Fire protection systems, standpipes, sprinkler systems and drain lines
Fish tanks, ponds
Floor drains
Food mixing tanks
Frost-free toilets, hydrants, and fountains
Garbage grinders
Garbage can washers
Garden sprayers
Heat exchangers
Humidity controls
Hydraulic equipment
Hydraulic insecticide or fertilizer applicators
Hydraulic lifts
Ice makers
Irrigation systems, lawn sprinklers
Kitchen equipment
Laboratory equipment
Laundry equipment
Lavatories
Lawn sprinklers
Liquid handling systems
Lubrication, pump bearings
Medical equipment
Pest control equipment
Photo laboratory sinks
Potato peelers
Pressure cookers
Process water circulation systems
Pump, priming systems
Sewer flush tanks
Shampoo sinks, basins
Showers, telephone type shower heads
Sinks, slop sinks
Soda fountains
Solar water and space heating equipment
Steam boilers
Steam tables
Stop and waste valves

Swimming pools, ponds, fountains

Tank and vats

Therapeutic tanks, spas, and hot tubs

Threaded hose bibbs

Toilets, flushometer, flush tank, ball cock, flush valve siphon jet

Vegetable peelers

Vacuum systems

Urinals (siphon set blowout)

Vacuum systems (water operated with water seals)

Water treatment devices

Water troughs

Water-using mechanical equipment

Water jacketed tanks, vats, cookers

CHAPTER 2

WATER AND SEWER RATES

SECTION

18-201. Purpose.

18-202. Water rates, sewer rates, and service tap fees.

18-201. Purpose. The following rate and fee structures are adopted so that safe and efficient water and sewer services may be provided to Spencer Utility District, and in other circumstances where services may be provided as have been or will be approved by the Spencer Board of Mayor and Aldermen. (as added by Ord. #2006-5, Aug. 2006)

18-202. Water rates, sewer rates and service tap fees.¹ Water, sewer and service tap fees shall be established by ordinance. (as added by Ord. #2006-5, Aug. 2006)

¹Ordinances amending water, sewer and service tap fees (and any amendments thereto) are available in the office of the city recorder.

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.

CHAPTER 1

ELECTRICITY

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.¹ The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

¹The agreements are of record in the office of the town recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. TELEPHONE SERVICE.
2. CIVIL DEFENSE ORGANIZATION.
3. FAIR HOUSING.

CHAPTER 1

TELEPHONE SERVICE

SECTION

20-101. To be furnished under franchise.

20-101. To be furnished under franchise. Telephone service shall be furnished for the municipality and its inhabitants under such franchise as the board of mayor and aldermen shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.¹

¹The agreements are of record in the office of the recorder.

CHAPTER 2

CIVIL DEFENSE ORGANIZATION

SECTION

- 20-201. Spencer--Van Buren County Civil Defense Organization created.
- 20-202. Authority and responsibilities.
- 20-203. Office of director, his authority and responsibility.
- 20-204. Spencer--Van Buren County Civil Defense Corps created.
- 20-205. No municipal or private liability.
- 20-206. Expenses of civil defense.

20-201. Spencer--Van Buren County Civil Defense Organization created. There is hereby created the Spencer - Van Buren County Civil Defense Organization, which shall be a joint operation of the Town of Spencer and the County of Van Buren for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Van Buren County shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the Van Buren County civil defense. (Ord. #68-3, May 1968)

20-202. Authority and responsibilities. (1) Authority. In accordance with federal and state enactments of law, the Spencer - Van Buren County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Van Buren County. The Spencer - Van Buren County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Spencer - Van Buren County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

(2) Responsibilities. The Spencer - Van Buren County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Van Buren County, to establish and co-ordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (Ord. #68-3, May 1968)

20-203. Office of director, his authority and responsibility.

(1) Primary authority. (a) The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge or either or by higher authority as appropriate.

(b) The director shall have overall responsibility for the preparation of all plans and recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state CD office.

(c) The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter, subject to the approval of the chief executive officers of the town and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the town and county for the execution of the authorities, duties, and responsibilities of the Spencer - Van Buren County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (Ord. #68-3, May 1968)

20-204. Spencer--Van Buren County Civil Defense Corps created.

The Spencer--Van Buren County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (Ord. #68-3, May 1968)

20-205. No municipal or private liability. The duties prescribed in this document are an exercise by the town and county of their governmental functions for the protection of the public peace, health, and safety and neither the Town of Spencer nor Van Buren County, the agents and representatives of said town and county nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this document shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission or for loss of, or damage to, the property of such person. (Ord. #68-3, May 1968)

20-206. Expenses of civil defense. No person shall have the right to expend any public funds of the town or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the town and/or county or both; nor shall any person have any right to bind the town or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the town and/or county, or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the town and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the town and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the town and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the Town of Spencer or Van Buren County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the town and county. (Ord. #68-3, May 1968)

CHAPTER 3

FAIR HOUSING

SECTION

20-301. Policy.

20-301. Policy. It is the policy of the City of Spencer to provide, within constitutional limitations, for fair housing throughout the city as provided in Tennessee Code Annotated, title 4, chapter 21, part 6. (Ord. #95-1, April 1995)

ORDINANCE NO. 2015-7

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE CITY OF SPENCER, TENNESSEE.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPENCER, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in Change 1 to the City of Spencer Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the City of Spencer Municipal Code.

Change 1 includes revisions required to the municipal code when considering ordinances and modifications made by the City of Spencer. Code sections affected by these ordinances and modifications contain citations at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be a civil offense, or wherever the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the supplement or the municipal code or other applicable law. In any place in the supplement the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this supplement, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this supplement, it shall mean "a civil penalty."¹

When a civil penalty is imposed on any person for violating any provision of the supplement and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

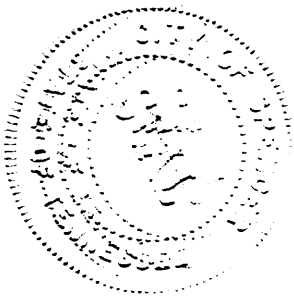
Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

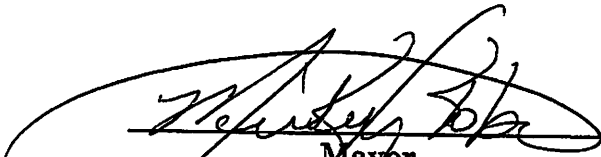
Section 6. Code available for public use. One copy of the supplement shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

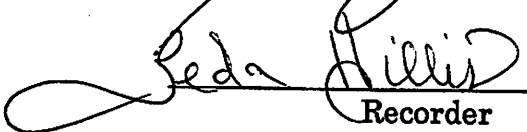
Passed 1st reading November 19th, 2015.

Passed 2nd reading December 17th, 2015.





Mayor



Recorder

