

## **TITLE III: ADMINISTRATION**

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## CHAPTER 30: TOWN OFFICIALS

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***GENERAL PROVISIONS***

**§ 30.01 PURPOSE.**

This chapter defines the organization of the town government; it prescribes general regulations for town officials; and it states the general powers and duties of the various elective offices and departments. (Prior Code, Ch. 2, Art. I)

**§ 30.02 GENERAL REGULATIONS FOR TOWN OFFICIALS.**

(A) *Applicability.* The provisions of this section shall apply alike to all officers, and employees of the town not otherwise herein specifically provided for, regardless of the time of the creation of the office or of the time of the appointment of the officer or employee.

(B) *Term of office; appointees.* Every appointive officer or employee of the town shall hold office at the will of the Town Council except where otherwise provided by statute or ordinance.

(C) *Oath of office.* Every officer of the town shall, before entering upon any duties, take the oath prescribed by law.

(D) *Bonds.*

(1) Elected and appointed officials shall be required to give surety bonds to secure the town for the proper performance of their duties in the amounts as may be prescribed by state statutes or the Town Council.

(2) The bonds shall be procured by the Clerk-Treasurer from surety companies licensed to do business in the State of Indiana and, when procured, shall be filed in his or her office.

(E) *Fees received.* No officer or employee receiving a salary from the town shall be entitled to retain any portion of any fees collected in the performance of his or her duties as a municipal officer or employee in the absence of a specific ordinance providing for same. The Town Council shall, by resolution, determine the officers and employees who shall receive fees for their services instead of an annual salary. The resolution shall determine the amount to be paid to the officers and employees and shall be paid by the Clerk-Treasurer upon the duly processed claim of the officer or employee.

(F) *Funds to Clerk-Treasurer.* All officers and employees, other than the Clerk-Treasurer, shall turn over to the Clerk-Treasurer all monies received by him or her in his or her official capacity, with a

statement showing the source from which the same was received at the intervals as prescribed by law, ordinance, or the Clerk-Treasurer.

(G) *Termination of office.* Every officer and employee of the town, upon the expiration of his or her term for any cause whatsoever, shall deliver to his or her successor, all books and records which may be the property of the town; and if no successor has been appointed within 1 week after the termination of his or her office, the property shall be delivered to the Clerk-Treasurer.

(Prior Code, Ch. 2, Art. II)

### **§ 30.03 OTHER TOWN OFFICIALS.**

The elected and appointed town officials designated by this chapter shall not be constrained in limiting the appointment of other officials within the structure of town government. The Town Council may hereinafter create, by resolution or ordinance, the offices and appoint other officials as it deems necessary for the proper, effective, and efficient functioning of town government.

(Prior Code, Ch. 2, Art. XI)

## ***TOWN COUNCIL***

### **§ 30.15 ELECTION AND TERM OF OFFICE.**

(A) The Town Council of Trustees shall be composed of 3 Trustees elected at-large by eligible voters of the town. Each Trustee shall be elected for a term of 4 years.

(B) Any vacancy occurring in the Town Council shall be filled by the procedures in I.C. 3-13-9 *et seq.*

(Prior Code, Ch. 2, Art. III, § 1)

### **§ 30.16 OATH OF OFFICE.**

Members of the Town Council shall, within 10 days after the election, take and subscribe, before some person authorized to administer oaths of office, the usual oath or affirmation for the faithful performance of duties of the office.

(Prior Code, Ch. 2, Art. III, § 2)

### **§ 30.17 OFFICE OF PRESIDENT.**

The Office of Town Council President is created and he or she shall be the presiding officer of all

regular and special meetings of the Town Council. The President shall be elected by the Council at the first regular meeting of the Council in January of each year for a term of 1 year.

(Prior Code, Ch. 2, Art. III, § 3)

### **§ 30.18 TOWN COUNCIL MEETINGS.**

(A) The Town Council shall hold its regular meetings the first and third Monday of each month at 7:00 p.m. in the Municipal Building, notice shall be provided by giving at least 48 hours notice to all members of the Council and to the public pursuant to the Indiana Open Door Law (I.C. 5-14-1.5).

(Am. Ord. passed 3-5-1984; Am. Ord. passed 12-18-2006)

(B) Special meetings of the Council may be called by the President or on the request of 2 Trustees by giving at least 48 hours notice to all members of the Council and to the public pursuant to the Indiana Open Door Law (I.C. 5-14-1.5).

(C) Electronic Meetings Policy.

(1) Any member may participate in a meeting by any electronic means of communication that allows all participating members of the governing body to simultaneously communicate with each other and, other than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting, subject to the following terms and conditions:

(a) At least fifty (50) percent of the members must be physically present at a meeting at which a member will participate by means of electronic communication.

(b) A member may only appear by electronic means of communication in two or more consecutive sessions or attend more than fifty (50) percent of the meetings in any calendar year by an electronic means of communication, unless the member's electronic participation is due to:

(i) Military service

(ii) Illness or other medical condition

(iii) Death of a relative; or

(iv) An emergency involving actual or threatened injury to persons or property.

(2) A member who participates by an electronic means of communication shall be considered present for the purposes of establishing and quorum and may participate in final action only

if the members can be seen and heard.

- (3) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.
- (4) Minutes or memoranda of a meeting at which any member participates by electronic means of communication must:
  - (a) Identify each member who is physically present at the meeting, identify that they participated by electronic means of communication, and was otherwise physically absent
  - (b) Identify the electronic means of communication by which a member participated in the meeting and identify the members of the public who attended and observed the meeting by means of electronic communication.
- (5) No member may participate by means of electronic communication in a meeting at which the Council may take final action to:
  - (a) Adopt a budget;
  - (b) Make a reduction in personnel;
  - (c) Initiate a referendum;
  - (d) Impose or increase a fee;
  - (e) Impose or increase a penalty;
  - (f) Exercise the Council's power of eminent domain; or
  - (g) Establish, impose, raise or renew a tax.
- (6) If an emergency is declared by the governor under IC 10-14-3-12 or the Town Council President under IC 10-14-3-29:
  - (a) members are not required to be physically present for a meeting until the emergency is terminated.
  - (b) Members may participate in a meeting by any means of communication provided that at least a quorum of the members participate in the meeting by either means of electronic communication or in person.
  - (c) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.
  - (d) The minutes or memoranda of the meeting must comply with (3) and (4) above.

(Prior Code, Ch. 2, Art. III, § 4) (Am. Ord. 2021-10, passed 6-7-2021)

### **§ 30.19 QUORUM.**

A majority of the Trustees shall constitute a quorum to do business. No ordinance shall be passed except upon the favorable vote of a majority of the members.

(Prior Code, Ch. 2, Art. III, § 5)

### **§ 30.20 ROBERT'S RULES OF ORDER.**

Robert's Rules of Order, as revised, shall govern the deliberations of the Town Council except when in conflict with the Town Code or the Indiana Code. The rules of order, other than those required by the Indiana Code, may however, be suspended at any time by the consent of a majority of the members present at any meeting.

(Prior Code, Ch. 2, Art. III, § 6)

### **§ 30.21 ADDRESSING COUNCIL MEETINGS.**

No person other than the President or a member of the Town Council shall address that body at any regular or special meeting except upon consent of the President.

(Prior Code, Ch. 2, Art. III, § 7)

### **§ 30.22 ORDINANCES AND RESOLUTIONS.**

Any ordinance or resolution submitted to the Town Council shall be reduced to writing before being voted upon if requested by any 2 members of the Council.

(Prior Code, Ch. 2, Art. III, § 8)

### **§ 30.23 RESCINDED ACTIONS.**

No vote or action of the Town Council shall be rescinded in any special meeting of the Council unless there be present, at the special meetings of the Council, as many members of the Town Council as were present at the meeting when the vote or action was taken.

(Prior Code, Ch. 2, Art. III, § 9)

### **§ 30.24 POWERS AND DUTIES.**

The Town Council shall have all the powers and duties prescribed by statute and shall constitute the head of legislative, executive and administrative authority for the town. It shall make and establish the by-laws, ordinances and regulations which are required to carry into effect the provisions of applicable

state laws and to repeal, alter or amend them as circumstances shall require.

(Prior Code, Ch. 2, Art. III, § 10)

## ***CLERK-TREASURER***

### **§ 30.40 ELECTION.**

The Office of the Clerk-Treasurer is an elective office and an individual shall be elected as the Clerk-Treasurer by the town voters at-large for a term of 4 years.

(Prior Code, Ch. 2, Art. IV, § 1)

### **§ 30.41 APPOINTMENT OF DEPUTY CLERK-TREASURER.**

When authorized by the Town Council, the Clerk-Treasurer may appoint a Deputy Clerk-Treasurer who shall be an assistant to the Clerk-Treasurer and who shall perform all functions delegated by the Clerk-Treasurer. The Deputy Clerk-Treasurer shall serve at the pleasure of the Clerk-Treasurer, or for an indefinite term not to exceed the term in office of the appointing Clerk-Treasurer.

(Prior Code, Ch. 2, Art. IV, § 2)

### **§ 30.42 POWERS AND DUTIES.**

(A) The Clerk-Treasurer serves as Clerk of the town and keeps an accurate journal of all town proceedings. The Clerk-Treasurer shall keep proper files of all papers and documents of every kind and character concerning or pertaining to the proceedings of the Council.

(B) The Clerk-Treasurer receives and cares for all the funds of the town and pays out the same only on the order of the Town Council. Its accounts shall be kept in such a manner as to show when and from what sources all monies paid to it have been derived, and to whom and when the monies or any part thereof, have been paid out.

(C) The Clerk-Treasurer prepares, in cooperation with the Town Council, the town budget and maintains all financial records and submits all financial reports as required by the State Board of Accounts.

(D) On the first day of the month, or as soon thereafter as possible, the Clerk-Treasurer files with the Town Council a statement of receipts and disbursements of the Town Treasury for the preceding month, showing the balance in each of the several funds available for use by the town.



(E) The Clerk-Treasurer sends out billing, collects all monies in connection with the sewer tap-on fees and use fees and maintains records and makes arrangements for payments of indebtedness bonds of the town and the interest thereon when due, and performs all other duties regarding the Sewage Department as may be required by the Indiana Code.

(F) The Clerk-Treasurer issues all licenses, authorized by law or by town ordinance, and properly accounts for all funds received there from.

(G) Insures that all funds deposited in the Cumulative Capital Improvement Fund are appropriated and used solely for capital improvement projects for the town and that no part of the funds deposited in the fund reverts to the general fund of the town. (The term *CAPITAL IMPROVEMENT* means the construction or improvement of any town owned property, including but not limited to streets, thoroughfares and sewers but shall not include salaries of any public officials or employees unless directly chargeable to the improvement. The funds may also be used to retire any general obligation bonds of the town issued for the purpose of construction of improvements which would qualify for use of the funds.)

(Prior Code, Ch. 2, Art. IV, § 3)

### **§ 30.43 BOOKS AND RECORDS.**

(A) The Clerk-Treasurer's books, accounts and vouchers shall, at all times, be subjected to examination by the Town Council or any person appointed by the Council for that purpose.

(B) All books, vouchers, monies or other property belonging to the town, and in charge or possession of the Clerk-Treasurer of the town, shall be promptly delivered to his or her successor.

(Prior Code, Ch. 2, Art. IV, § 4)

### ***TOWN MANAGER AND TOWN ATTORNEY***

### **§30.60 POSITION ESTABLISHED; APPOINTMENT; REMOVAL FROM OFFICE**

(A) The position of Town Manager is hereby established.

(B) The Town Manager shall be appointed by the majority vote of the Town Council then holding office.

(C) The Town Council may remove the Town Manager at any time by a majority vote of the Town Council then holding office.

(Prior Code, Ch. 2, Art. V, § 1) (Ord. passed 7-6-1981) (Am. Ord. 2022-21, passed 12-19-22)

**§ 30.61 RESIDENCY REQUIREMENT.**

The Town Manager must be a resident of Owen County or must relocate to Owen County within one (1) year of the date of hire.

(Ord. 2022-21, passed 12-19-22)

**§ 30.62 COMPENSATION.**

The Town Council shall determine the amount of compensation, benefits and terms of employment of the Town Manager.

(Prior Code, Ch. 2, Art. V, § 3) (Am. Ord. 2022-21, passed 12-19-22)

**§ 30.63 POWERS AND DUTIES.**

The Town Manager shall have the following duties:

(A) Shall attend the meetings of the legislative body collaborate and team with the Town's Legislative Body and recommend actions the manager considers advisable;

(B) Shall hire town employees according to the pay schedules and standards fixed by the legislative body or by statute;

(C) Shall suspend, discharge, remove, or transfer town employees, if necessary for the welfare of the town;

(D) May delegate any of the manager's powers to an employee responsible to the manager;

(E) Shall administer and enforce all ordinances, orders, and resolutions of the legislative body;

(F) Shall see that all statutes that are required to be administered by the legislative body or a town officer subject to the control of the legislative body are faithfully administered;

(G) With the assistance of Town Department Heads and the Town Clerk-Treasurer shall prepare budget estimates and submit them to the legislative body when required;

(H) Under the advisement of the legislative body shall execute contracts on behalf of the town for materials, supplies, services, or improvements, after the completion of the appropriations, notice, and competitive bidding required by statute.

(I) May receive service of summons on behalf of the town and give advice to the legislative body on what actions can be take

(J) Serves as a liaison between the various departments of the Town; review material submitted from various departments for Town Board action; determine completeness and accuracy of materials.

- (K) Shall implement and uphold policies set by the Town Board.
  - (L) To assist with of public relations.
  - (M) Acts as a purchasing agent for the Town.
  - (N) Shall review all purchasing by the Town Board.
  - (O) Shall respond to and resolve difficult and sensitive citizen inquiries and complaints; contact departments involved; provide direction and delegate authority as necessary to correct issues.
  - (P) Shall prepare agendas and minutes for the Town Board
  - (Q) Shall serves as an ex-officio member of all committees, boards, etc.
  - (R) Shall oversee Town projects and facilities
  - (S) Shall coordinates major construction projects
  - (T) Shall serve as the Floodplain Administrator
  - (U) Shall ensure the policies and directives of the Town Board are followed by the departments of the Town
  - (V) Shall research and investigate, through interaction with the state and special agencies, to aid in the acquisition of available grants to promote continued growth of the Town.
  - (W) Shall serve as the zoning administrator and administers the day-to-day operation of the planning, zoning and building functions of the Town, including, the preparation of agendas and minutes for the board meetings. Prepares agendas and minutes for the respective board meetings
  - (X) Oversees the proper use, scheduling, and maintenance of public buildings and property (i.e. coordinates with business, state, etc in the event of festivals, parades, etc.)
  - (Y) Shall monitor pending legislation affecting the Town and its departments; makes recommendations to the Town attorney for ordinances, policies, rules and regulations that need updated.
  - (Z) Shall communicates with local groups such as the Chamber of Commerce, Economic Development, Civic Groups and Professional Organizations.
- (Prior Code, Ch. 2, Art. V, § 4)(Am. Ord. 2022-\_\_\_\_ passed 12-19-22)

**§ 30.64 SERVICE OF SUMMONS.**

In all actions brought against the town, service of summons may be made on the Town Manager and he or she is hereby authorized to receive the service on behalf of the town.

(Prior Code, Ch. 2, Art. V, § 5) (Am. Ord. 2022-21, passed 12-19-22)

**§ 30.65 BOND.**

The Town Manger must, in the manner prescribed by IC 5-4-1, execute a bond for the faithful performance of the manager's duties.

(Ord. 2022-21, passed 12-19-22)

**§ 30.66 THE TOWN ATTORNEY.**

The Town Council will appoint a Town Attorney to provide it with the necessary and required legal advice, counsel, and services. He or she shall be compensated for his or her duties at an hourly rate as may be prescribed by the Town Council and he or she shall be entitled to a reasonable compensation for all services performed by him or her for the town at the direction of the Town Council.

(Prior Code, Ch. 2, Art. VI)

## ***NONDISCRIMINATION IMPLEMENTATION PLAN AND POLICY***

### **§30.70 NONDISCRIMINATION POLICY ADOPTED**

(A) Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial Assistance” (42 U.S.C. Section 2000d)

Pursuant to Title VI of the Civil Rights Act of 1964, as amended, and the Civil Rights Restoration Act of 1987, Town of Spencer, Indiana, hereinafter referred to as “Town of Spencer,” will not exclude from participation in, deny the benefits of, or subject to discrimination any individual on the grounds of race, color, or national origin, sex, age, disability, limited English proficiency and income status.

The Spencer Town Board has prepared a statement of nondiscrimination and its intent to comply and enforce Title VI of the Civil Rights Act of 1964 that statement is posted in all public buildings owned and operated by Town of Spencer. Additionally, the posting provides information about how to raise concerns or lodge complaints related to potential violations of Title VI.

(B) The Spencer Town Board hereby appoints the President of the Town Board as the Title VI Coordinator with respect to contracting and any program or activity for which the Town receives federal financial assistance.

(C) The Spencer Town Board hereby adopts by reference the Title VI Plan and Policy and directs that the same be posted on the Town’s website and made available to the public through all other appropriate avenues.

(Res. 2019-07, passed 3-4-2019)

## CHAPTER 31: TOWN ORGANIZATIONS

Section

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## ***PARKS AND RECREATION BOARD***

### **§ 31.01 MEMBERSHIP.**

(A) *Members.* Four members shall be appointed by the Town Council President.

- (1) Membership shall be based on a person's interest and knowledge of parks and recreation.
- (2) No more than 2 members shall be of the same political party.
- (3) No member shall be on the Town Council of Trustees, or be the Town Clerk-Treasurer, be

on the County Council, a County Commissioner, or a county fiscal officer.

- (4) All members shall be residents of the town.

(I.C. 36-10-3-4)

(B) *Terms of office.*

(1) Members shall serve for 4 years after the initial appointment of 1 for 1 year, 1 for 2 years, 1 for 3 years, and 1 for 4 years.

(2) All terms expire the first Monday of January, but a member continues to serve until his or her successor is appointed. If a new appointment is not made by the first Monday of April, the incumbent serves another 4 year term.

(3) If a vacancy occurs, the Town Council President appoints a person to serve the remainder of that term.

(I.C. 36-10-3-5) (Prior Code, Ch. 6, Art. I) (Ord. 1985-5, passed 5-6-1985)

### **§ 31.02 MEETINGS.**

(A) *Public meetings.* All meetings shall be open to the public. Notice shall be given pursuant to the Open Door Law.

(B) *Quarterly meetings required.* The Parks and Recreation Board shall meet at least quarterly.

(C) *Time and place of meetings.* The members shall establish times and places for each meeting.

(D) *Election of officers.* At the first meeting each year, the members shall elect a President, Vice-President, and may elect a Secretary, who does not have to be a Park Board member.

(E) *Quorum.*

(1) A majority of the membership is a quorum.

(2) No action is official unless authorized by at least 3 members present and acting.

(Prior Code, Ch. 6, Art. II) (Ord. 1985-5, passed 5-6-1985)

### **§ 31.03 DUTIES AND POWERS.**

(A) *Duties.*

(1) Shall supervise, in general, and make rules for the Department;

(2) Shall establish rules for the use of facilities;

(3) Shall provide police protection for its property and activities, by requesting assistance from state, county, or town police, or by deputizing specified employees;

(4) Shall appoint needed administrative officers in the Parks and Recreation Department, and fix their duties; and

(5) Prepare and submit an annual budget.

(I.C. 36-10-3-10)

(B) *Powers.*

- (1) May enter into contracts and leases for facilities and services, with other units, schools, or persons;
- (2) May acquire and dispose of real or personal property;
- (3) May exercise eminent domain;
- (4) May sell, lease, or contract the mineral or natural resources of the land they own. Money from this source must be deposited in a non-reverting capital fund of the Board;
- (5) Engage in self-supporting activities;
- (6) May prepare, publish, and distribute reports and or materials related to their activities; and
- (7) May accept gifts, donations, and/or subsidies.

(I.C. 36-10-3-18)

(a) These funds shall be deposited in a non-reverting fund, to be used as the grantor(s) specified.

(b) Claim vouchers must be signed by the Parks and Recreation Board President and Secretary.

(I.C. 36-10-3-11)

(Prior Code, Ch. 6, Art. III) (Ord. 1985-5, passed 5-6-1985)

***Statutory reference:***

*Self-supporting activities, see I.C. 36-10-3-22*

## ***PLAN COMMISSION***

### **§ 31.20 PURPOSE.**

This subchapter creates the Spencer Advisory Plan Commission to promote the orderly growth of the town; to improve the health, welfare, safety, and convenience of its residents; and to plan development of residential, industrial, agricultural, and business needs for growth.

(Prior Code, Ch. 8, Art. I) (Ord. 1985-1, passed 1-21-1985)

***Cross-reference:*** *Subdivisions, Chapter 153*



## § 31.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

**COMMISSION.** The Spencer Advisory Plan Commission.

**DISTRICT.** An area identified and zoned for certain purposes and use.

**MASTER PLAN.** A complete plan or its parts for land use and zoning, thoroughfares, sanitation, recreation, and other related matters.

**PERSON.** An individual, firm, partnership, company, or corporation.

**PLANNING AREA.** The land area in the corporate limits of the town.

**PUBLIC PLACE.** All tracts owned by the town.

**STREETS.** All public ways, streets, avenues, roads, lanes, and alleys.

**UTILITY.** Any facility used to provide a service that the public has a right to demand.

(Prior Code, Ch. 8, Art. II) (Ord. 1985-1, passed 1-21-1985)

## § 31.22 MEMBERSHIP OF THE COMMISSION.

(A) *Appointment and term of office.* The Commission shall consist of 7 members who shall be qualified by knowledge and experience in the development of the town and its planning area.

(1) The Town Council shall appoint 3 persons who must be elected or appointed town officials or employees of the town government, as members.

(2) The President of the Town Council shall appoint 4 persons who are residents of the town, of whom no more than 2 shall be of the same political party.

(3) Each term of office shall be 4 years, with each member serving until his or her successor is appointed and qualified.

(B) *Oath of office.* Each Commission member, before beginning his or her duties, shall take an oath of office on the certification of his or her appointment. The oath shall be filed in the Clerk-Treasurer's office.

(C) *Conflict of interest.* Any member of the Commission who has a direct or indirect financial interest in a matter before the Commission shall disclose his or her interest and shall not vote, participate, or discuss the matter at hearings.

(Prior Code, Ch. 8, Art. III) (Ord. 1985-1, passed 1-21-1985)

### **§ 31.23 ORGANIZATION OF THE COMMISSION.**

(A) *Officers.* After appointment, members of the Commission shall meet, elect a President and Vice-President for annual terms and shall adopt the rules and by-laws as necessary. The Commission may appoint a Secretary who is not a member of the Commission.

(B) *Meetings.*

(1) The Commission normally meets at least once a month as determined by the President. All meetings of the Commission shall be open to the public. Written records of all proceedings shall be kept and be a part of the Commission's files.

(2) Special meetings may be called by the President or by 2 members on written request to the Secretary. The Secretary shall notify all members at least 3 days in advance of a special meeting, in writing. Written notice of special meetings is not required if members were notified at a regular meeting, and if all members are present at the regular meeting.

(C) *Quorum.* A quorum consists of a majority of the entire membership of the Commission.

(Prior Code, Ch. 8, Art. IV) (Ord. 1985-1, passed 1-21-1985)

### **§ 31.24 POWERS AND DUTIES.**

The Commission shall:

(A) Make recommendations to the Town Council concerning the operation of the Commission and report on planning activities;

(B) Prepare a Master Plan for the Planning Area which will promote the general welfare, health, safety, and convenience as the town develops;

(C) Make recommendations to the Town Council on the adoption of a Master Plan, its zoning districts, and subdivisions; and to recommend changes or amendments when needed;

(D) Prescribe uniform rules for investigations and hearings;

(E) Prepare, publish, distribute reports, ordinances, and other materials;

(F) Keep a complete record of all departmental proceedings and assume responsibility for preservation of all papers and documents;

(G) Adopt a seal and certify to all official acts;

(H) Establish committees as necessary; and

(I) Approve assignments of street numbers to new lots, and name new streets. Exercise all other powers and duties prescribed by law or assigned by the Town Council.

(Prior Code, Ch. 8, Art. V) (Ord. 1985-1, passed 1-21-1985)

**§ 31.25 THE SPENCER MASTER PLAN.**

(A) *General.* The Master Plan shall be the basis comprehensive document used to guide the orderly development of the town:

(1) Careful, comprehensive survey and study of existing conditions and the probable future growth of the town; and

(2) Maps, plats, or materials giving information, locations, extent and characteristics of: history, population, its density, physical conditions, land use, blighted areas, streets, streams, floods; utilities, transportation; parks and recreation, public buildings and institutions, educational facilities, and/or any other factors that are a part of the structure of the town.

(B) *Basis of the Master Plan.* The Master Plan shall be based on:

(1) Careful, comprehensive survey and study of existing conditions and the probable future growth of the town; and

(2) Maps, plats, or materials giving information, locations, extent and characteristics of history, population, its density, physical conditions, land use, blighted areas, streets, streams, floods, utilities, transportation, parks and recreation, public buildings and institutions, educational facilities, and/or any other factors that are a part of the structure of the town.

(C) *Zoning districts.*

(1) The Commission shall establish and recommend the zoning districts that divide the town into areas of the kind, character, number, shape and area necessary to promote the health, welfare, safety, comfort and convenience of all.

(2) The districts created shall be subject to restrictions that may be necessary and appropriate in that district, such as use restrictions, structure restrictions, or other requirements.

(D) *Adoption of Master Plan.* Shall be in accordance with Indiana state laws.

(Prior Code, Ch. 8, Art. VI) (Ord. 1985-1, passed 1-21-1985)

**§ 31.26 AMENDMENTS OR REJECTIONS TO THE MASTER PLAN.**

(A) *Plan Commission hearings.*

(1) The Commission shall give notice and hold public hearings as required in I.C. 5-3-1, for any amendments or changes in the Zoning Ordinance (Master Plan).

(2) After a public hearing has been held, the Commission shall make its recommendation to the Town Council.

(3) If the Town Council wishes to amend the Zoning Ordinance, it may direct the Commission to prepare the amendment and submit it to a public hearing within 60 days after a formal written request by the Town Council:

(a) The Commission has 45 days to consider the amendment or rejection and to file a report with the Town Council. If the Commission approves an amendment or rejection, the ordinance stands as passed by the Town Council on the date the Commission reports to the Town Council;

(b) If the Commission does not file its report to the Town Council within 45 days, the Town Council action becomes final; and

(c) If the Commission disapproves the amendment or rejection, the Town Council must confirm its original vote by a 2/3 majority vote in order to pass the issue.

(B) *Petitions for amendments.*

(1) Duly signed petitions may be given to the Clerk-Treasurer by:

(a) The Commission; and

(b) The owners of at least 50% of the area involved in the petition.

(2) If a petition for amendment to the Zoning Ordinance does not originate with the Commission, it must be referred to the Commission for consideration and a report before any final action is taken by the Town Council.

(C) *Commission rejection or adverse report.*

(1) If the Commission is adverse to a proposed amendment referred to it, the proposed ordinance shall not be passed except on a new 2/3 vote of the Town Council.

(2) Failure of the Town Council to pass a zoning ordinance within 90 days after its rejection by the Commission constitutes a rejection of the proposed ordinance and it may not be reconsidered by the Commission or the Town Council until the expiration of 1 year after the date of the original rejection by the Commission.

(Prior Code, Ch. 8, Art. IX) (Ord. 1985-1, passed 1-21-1985)

## CHAPTER 32: TOWN DEPARTMENTS

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## ***POLICE DEPARTMENT***

### **§ 32.01 POLICE DEPARTMENT.**

(A) There is hereby created a Police Department for the town. It shall consist of the Town Marshal and the full and part-time Deputy Marshals as shall be authorized from time to time by the Town Council.

(B) The Police Department shall be under the general administrative direction of the Town Marshal.  
(Prior Code, Ch. 2, Art. VII, § 1)

### **§ 32.02 ORGANIZATION.**

(A) The Town Marshal shall be the head of the Police Department. He or she shall have supervision over all officers and members thereof and he or she shall be responsible for the performance by the Police Department of all disciplinary functions, and all persons who are members of the Police Department shall serve subject to the orders of the Town Marshal.

(B) The Department shall include a Special Deputy with limited authority who shall be designated as the Meter Person.  
(Prior Code, Ch. 2, Art. VII, § 2)

### **§ 32.03 APPOINTMENTS.**

(A) The Town Marshal shall be appointed by the Town Council and he or she shall serve at the pleasure of the Town Council. All Deputy Marshals, whether full or part-time, shall not be appointed without Town Council approval.

(B) All appointees to the Police Department, except the Meter Person, must be graduates of the Indiana Law Enforcement Academy at the time of their paid appointment date, or shall agree prior to the appointment date, to attend and pass the Academy (normally within an approximate year after their paid appointment date to the Department).  
(Prior Code, Ch. 2, Art. VII, § 3)

#### **§ 32.04 COMPENSATION.**

The Town Council shall determine the amount of compensation, benefits, and terms of employment for the Town Marshal and all deputies.

(Prior Code, Ch. 2, Art. VII, § 4)

#### **§ 32.05 CONDUCT OF OFFICERS.**

It shall be the duty of every member of the Police Department to conduct himself or herself in a proper and law abiding manner at all times. All officers shall use only the force allowable by law while executing the provisions of state law, town ordinances and town policies.

(Prior Code, Ch. 2, Art. VII, § 5)

#### **§ 32.06 RULES AND REGULATIONS.**

The Town Marshal shall make or prescribe the rules and regulations as he or she deems advisable, when approved by the Town Council. The rules and regulations shall be binding on all members of the Department. The rules and regulations may include, but are not limited to, the conduct of members, uniforms and equipment to be worn or carried, hours of service, and all other similar matters necessary for the operation of an efficient Department.

(Prior Code, Ch. 2, Art. VII, § 6)

#### **§ 32.07 POWERS AND DUTIES.**

The Town Marshal and his or her duly appointed deputies:

(A) Shall be the conservator of peace and shall arrest, without process, all persons who within their view commit any crime or misdemeanor contrary to the Indiana Code and/or ordinances of the town, and shall suppress all breaches of the peace within their knowledge. They shall take all suspects before the court having jurisdiction of the offense with which the person is charged, and retain them in custody for no more than 48 hours without probable cause for the arrest being determined by the court of jurisdiction;

(B) Have the authority to pursue and commit to jail all felons, persons guilty of arrest, all misdemeanors and/or crimes in violation of state statutes. They may call to their aid the power of the town and enforce applicable town ordinances;

(C) Possess all the common-law and statutory powers of an Indiana law enforcement officer in relation to the service of civil process; and any warrant of search or arrest, issued by any judge, or magistrate, may be executed in any part thereof subject to the laws of the state governing arrest and bail;

(D) Shall, as needed, have the power and authority as prescribed by law for humane officers in the prevention of cruelty to animals and shall have authority to enforce town ordinances pertaining to the control of animals within the corporate limits of the town;

(E) Shall (including the person designated as Meter Person) have the authority to issue local ordinance citations for ordinance violations and control traffic as permitted by law. The Meter Person may under special conditions, (such as for funeral processions, school children crossings, and similar circumstances) also stop traffic; and

(F) Perform the other duties, allowable under the law, as may be prescribed, by the Town Council.  
(Prior Code, Ch. 2, Art. VII, § 6)

#### **§ 32.08 USE OF EQUIPMENT.**

No equipment, tools, or other property of the town furnished to the Police Department shall be used for any purpose other than for accomplishing the responsibilities assigned to the Police Department without prior Town Council approval.

(Prior Code, Ch. 2, Art. VII, § 7)

#### **§ 32.09 LIABILITIES.**

The deputies, including the Meter Person, when appropriate and within the scope of their powers and duties in executing the orders of the Town Council or enforcing the ordinances of the town, shall possess the powers of and be subject to the liabilities of the Town Marshal.

(Prior Code, Ch. 2, Art. VII, § 9)

#### **§ 32.10 RECORDS AND REPORTS.**

The Town Marshal shall keep the records and make the reports concerning the activity of his or her Department, as may be required by the Indiana Code, to the Town Council and/or Clerk-Treasurer.

(Prior Code, Ch. 2, Art. VII, § 10)

#### **§ 32.11 CUSTODY AND PROPERTY.**

The Town Marshal shall have the temporary custody of all evidence, lost, abandoned, or stolen property recovered by his or her Department.

(Prior Code, Ch. 2, Art. VII, § 11)



## **§ 32.12 POLICE RESERVES.**

(A) *Police Reserve membership.* There is hereby created a Spencer Police Reserve Unit, the membership of which shall consist of not more than fifteen (15) persons of active status. The Spencer Police Reserve Unit shall be made up of persons who at the time of their appointment shall be residents of Owen County, or contiguous counties, and who have been actual residents thereof for at least 1 year prior to their appointment. Each member shall be in good physical condition and of good character and not less than 21 years of age. Appointments to the Spencer Police Reserve Unit shall be made by the Spencer Town Council upon recommendation of the Town Marshal. Any reserve member may be discharged at any time, with or without cause, by the Spencer Town Council upon recommendation of the Town Marshal. Regular full time members of the Police Department shall not be eligible for membership in the Spencer Police Reserve Unit.

(B) *Oath, Commissions, powers, duties.* The Spencer Police Reserve Unit shall function under the immediate direction of the Town Marshal or in his or her absence, the senior officer on duty. Before entering upon his or her duties, each member shall take and subscribe to the same oath or affirmation as provided by the statutes to be taken and subscribed by all police officers. Except during any period of probation, members of the Police Reserve Unit shall have all the powers and authority and shall be subject to all the duties of members of the regularly constituted Police Department and shall be subject to the rules and regulations governing the Police Department, provided however, that membership in the Police Reserve Unit shall not constitute membership in the regularly constituted Police Department nor shall any member of the Spencer Police Reserve Unit be entitled to any right or privilege of compensation, pension or any other similar right or privilege of members of the regularly constituted Police Department nor any other prerequisite or emolument attaching to membership in the regularly constituted Police Department.

(C) *Probationary period.* Each new member of the Police Reserve Unit shall serve on probation for a period of one (1) year. During the period of probation he or she shall have only the power, authority, and duties as are assigned to them from time to time, by the Chief. Upon completion of the probationary period and/or required training, the Chief may appoint any member from probationary to active status. If a member is not appointed to active status within 1 week after the probationary period, the member shall be dropped automatically from membership in the Police Reserve Unit.

(D) *Training and by-laws.* All reserve officers shall complete the ILEA pre-basic law enforcement training, shall be firearm qualified, and shall complete any other training program that the Town Marshal deems necessary. Training shall be completed before the end of a member's probationary period. The

Spencer Police Reserve Unit may adopt its own by-laws and rules or regulations and any and all amendments thereof shall at all times be subject to approval by the Chief and shall not conflict with any provisions of this section, and shall be subordinate at all times to the ordinances of the Town of Spencer and to rules and regulations of the Spencer Police Department and to the orders of the Chief.

(E) *Compensation.* No member of the Police Reserve Unit shall receive any compensation from the Town of Spencer for his or her services as a member of the Spencer Police Reserve except as may be provided from time to time by resolution of the Town Council.

(F) *Uniform.* The members of the Spencer Police Reserve Unit shall be furnished uniforms, id's and badges. Other limited necessary equipment may be provided by the Town of Spencer if approved by the Chief. Any such equipment issued to the Spencer Police Reserve shall be returned to the Town of Spencer upon termination of services.

(G) *Officers, elections and terms.* The Officers of the Spencer Police Reserve Unit shall consist of a President and Secretary/Treasurer. The election of officers shall be pursuant to the terms and conditions of the Spencer Police Reserve Unit By-laws.

(H) *Financial accounts.* The financial accounts of the Spencer Police Reserve Unit shall be subject to audit by any agent designated by the Town Council any time the Town Marshal and/or Town Council may request. Any audit shall be made by an accountant or auditor appointed by the Town Marshal and/or Town Council for this purpose. Reserve officers are authorized to accept funds made available by specific donations, fundraisers, reserve activities and other similar sources. All fundraiser or activities designed to raise funds must be pre-approved by the Chief of Police, an event registration form may be used to accomplish this.

(I) *Insurance.* The Town of Spencer shall provide adequate liability insurance for members of the Reserve Unit while on duty.

(Prior Code, Ch. 2, Art. VII, § 12) (Ord. 1991-7, passed 8-19-1991, Am. Ord. 2013-3, passed 4-1-2013)

### **§ 32.13 ADMINISTRATIVE/SUSPENSIONS ADVISORY BOARD.**

(A) The Administrative/Suspensions Advisory Board shall consist of all current members of the Town Council, Town Attorney and the Chief Marshal.

(B) The responsibilities of this Board shall consist of:

(1) Screening applications for employment:

(a) Commissioned officers; and

(b) Reserve officers.

(2) Suspension/termination recommendations; and

(3) Department policy recommendations.

(C) This Board shall meet within 48 hours notice by the Chief Marshal or 48 hours within a suspension of an officer. The Chief Marshal shall submit recommendations or findings to the Board at that time. If the Board finds that there is substantial evidence of misconduct, the Board may recommend that the officer remain suspended until any and all investigations are completed.

(Prior Code, Ch. 2, Art. VII, § 13) (Ord. 1991-9, passed 11-4-1991)

### **§ 32.14 HANDGUN APPLICATION FEES.**

(A) *Fees.* The Spencer Police Department, when accepting an application for a handgun license, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be accountable for the fees received as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer into a fund designated as the Firearms Training Fund.

(C) *Disposition of funds.* The funds from the Firearms Training Fund are to be used by the Spencer Chief of Police for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties, and can be authorized without appropriation.

(Prior Code, Ch. 23, Art. I)

### **§ 32.15 HANDGUN TRANSFER APPLICATION FEES.**

The Spencer Police Department, when accepting an application for the transfer of a handgun, shall not collect an amount which exceeds the maximum allowable by state law.

(A) *Accountability.* The Spencer Police Department shall be accountable for the fees received as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer as follows:

(1) Three dollars of each transfer fee shall be remitted quarterly on Form 366 to the Auditor of the State of Indiana, without appropriation. These funds are to be deposited in the general fund until remitted.

(2) Two dollars of each transfer fee shall be deposited into the Firearms Training Fund.

(B) *Disposition of funds.* The funds from the Firearms Training Fund are to be used by the Spencer Police Chief for the purpose of training law enforcement officers in the proper use of firearms or other

law enforcement duties, and can be authorized without appropriation.

(Prior Code, Ch. 23, Art. II)

### **§ 32.16 VEHICLE INSPECTION FEES.**

(A) *Fees.* The Spencer Police Department, when requested to inspect a motor vehicle prior to registration in this state, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be responsible for the accounting of the fees as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer in the general fund.

(C) *Disposition of funds.* The funds received for vehicle inspection shall be used as other funds are used from the general fund, by authorized appropriations.

(Prior Code, Ch. 23, Art. III)

### **§ 32.17 ACCIDENT REPORT FEES.**

(A) *Fees.* The Spencer Police Department shall, upon request, furnish copies of accident reports, and on a request, shall not collect an amount which exceeds the maximum allowable by state law.

(B) *Accountability.* The Spencer Police Department shall be responsible for the accounting of the fees as prescribed by the Indiana State Board of Accounts, and the fees shall be deposited by the Clerk-Treasurer into a fund designated Accident Reports.

(C) *Disposition of funds.* The funds receipted to the Accident Report Fund shall be used for costs related to accident reports, or for accident prevention on the streets or highways. The funds can be authorized by the Spencer Chief of Police without being appropriated.

(Prior Code, Ch. 23, Art. IV)

### **§ 32.18 RETAINAGE OF SERVICE WEAPON.**

(A) Upon approval of the Spencer Town Board, an eligible employee who has served the Town of Spencer Police Department for a period of at least ten (10) years and leaves the service of the Town of Spencer Police Department may retain the employee's service weapon; and,

(B) Upon the eligible employees leave, the Spencer Police Department shall issue to the employee an identification card that:

- (1) Gives the employee's name and rank;
- (2) Signifies that the employees has served the Town of Spencer; and,

(3) Notes the employee's authority to retain the employee's service weapon.  
(IC 10-12-2-1) (Ord. 2009-16, passed 9-9-2009)

### **§32.19 CONFIDENTIAL FUNDS**

- (A) A "Confidential Funds" fund is hereby established.
- (B) Confidential Funds may be supported by forfeiture funds, grants, and budgetary appropriations made by the Spencer Town Council.
- (C) The funds will be managed by the Spencer Town Marshal, Deputy Town Marshal, and the Narcotic Investigator.
- (D) Funds shall be requested and used in conformity with the policies and procedures set forth in the Spencer Police Department Confidential Funds Policy.
- (E) Audit Provisions
  - (1) It is imperative that meticulous records are kept as Confidential Funds are subject to the Indiana State Board of Accounts review annually. In the case of a grant, all records, with the exception of the name of the informant, are subject to the record and audit provisions of the grantor agency.
  - (2) A copy of all requests, whether approved or denied, along with all additional documentation required by this policy must be kept and shall be maintained by the Narcotics Investigator for a period of 10 years.

(Ord. 2023-06, passed 5-1-2023)

## ***STREET DEPARTMENT***

### **§ 32.30 STREET DEPARTMENT CREATED.**

(A) There is hereby created a Street Department for the town which shall consist of a Superintendent and other employees as shall be authorized from time to time by the Town Council.

(B) The Street Department shall be under the general administrative direction of the Town Council.  
(Prior Code, Ch. 2, Art. IX, § 1)

### **§ 32.31 APPOINTMENTS.**

(A) The Superintendent of the Street Department and all other appointments to the Department shall be made only with the approval of the Town Council.

(B) The Superintendent shall be the head of the Street Department and shall have supervisory authority over all employees thereof.  
(Prior Code, Ch. 2, Art. IX, § 2)

### **§ 32.32 COMPENSATION.**

The Town Council shall determine the amount of compensation, benefits, and terms of employment for all personnel of the Street Department.

(Prior Code, Ch. 2, Art. IX, § 3)

### **§ 32.33 POWERS AND DUTIES.**

The Superintendent shall be:

(A) Responsible for the efficient and effective performance of the Street Department in the maintenance and repair of streets, alleys, drains, ditches, storm sewers and other public property of Spencer; and

(B) Responsible for the care, safety, use and custody of all town property provided to the Street Department for use in carrying out its functions.

(Prior Code, Ch. 2, Art. IX, § 4)

### **§ 32.34 USE OF EQUIPMENT.**

No equipment, tools, or other property of the town furnished to the Street Department shall be unreasonably used for any purpose other than for accomplishing the responsibilities assigned to the Street

Department without prior Town Council approval.

(Prior Code, Ch. 2, Art. IX, § 5)

### **§ 32.35 RECORDS AND REPORTS.**

The Superintendent shall maintain the records and make the reports as are required by state law, to the Town Council and/or the Clerk-Treasurer.

(Prior Code, Ch. 2, Art. IX, § 6)

## ***SEWAGE DEPARTMENT***

### **§ 32.50 SEWAGE DEPARTMENT CREATED.**

(A) There is hereby established a Sewage Department for the town which shall consist of a Superintendent and other employees as shall be authorized from time to time by the Town Council.

(B) The Sewer Department shall be under the general administrative direction of the Town Council.

(Prior Code, Ch. 2, Art. X, § 1)

### **§ 32.51 APPOINTMENTS.**

(A) The Superintendent of the Sewage Department and all other appointments to the Sewage Department shall be made with the approval of the Town Council. The Superintendent and/or sewage disposal operators shall have, and maintain in a current status, the licenses and/or meet the technical qualifications as may be required or prescribed by state and federal laws and regulations.

(B) The Superintendent shall be the head of the Sewage Department and have supervision over all employees thereof.

(Prior Code, Ch. 2, Art. X, § 2)

### **§ 32.52 COMPENSATION.**

The Town Council shall determine the amount of compensation, benefits, and terms of employment for all personnel of the Sewage Department.

(Prior Code, Ch. 2, Art. X, § 3)

**§ 32.53 POWERS AND DUTIES.**

The Superintendent shall be responsible for the:

(A) Effective and efficient operation of the Municipal Sewage Treatment Plant and the Municipal Sanitary Sewer System; and

(B) Care, safety, use and custody of all town property provided to the Sewage Department for use in carrying out its functions.

(Prior Code, Ch. 2, Art. X, § 4)

**§ 32.54 USE OF EQUIPMENT.**

No equipment, tools, or other property of the town furnished the Sewage Department shall be unreasonably used for any purpose other than for accomplishing the responsibilities assigned the Sewage Department without prior Town Council approval.

(Prior Code, Ch. 2, Art. X, § 5)

**§ 32.55 RECORDS AND REPORTS.**

The Superintendent shall maintain the records and make the reports as are required by state and federal agencies, the Town Council and/or the Clerk-Treasurer.

(Prior Code, Ch. 2, Art. X, § 6)



## **CHAPTER 33: PURCHASING PROCEDURES**

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## **§ 33.01 DEFINITIONS**

**"Affiliate"** means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, limited liability company manager or member, joint venturer, a corporation subject to common control with the architect, engineer or construction manager, a shareholder or corporation who controls the architect, engineer or construction manager, or a corporation controlled by the architect, engineer, or construction manager.

**"Architect"** means the person registered under IC 25-4-1.

**"Board"** means the board or officer of a political subdivision or an agency having the power to award contracts for public work

**"Contractor"** refers to a person who has a contract with a governmental body

**"Construction manager"** means a person designated as a construction manager by contract who provides professional management services, which contribute to the control of time and the cost and quality of a public construction project, and who performs those services concurrent with architectural and engineering services rendered during the design and construction phases of a construction project.

**"Engineer"** means the person registered under IC 25-31-1.

**"Executive branch"** refers to the department of state government provided in Articles 5 and 6 of the Constitution of the State of Indiana.

**"Fiscal body"** has the meaning set forth in IC 36-1-2-6.

**"Governmental body"** means an agency, a board, a branch, a bureau, a commission, a council, a department, an institution, an office, or another establishment of any of the following:

1. The executive branch.
2. The judicial branch.
3. The legislative branch.
4. A political subdivision.

**"Internet purchasing site"** means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet. The term includes an Internet purchasing site developed under IC 4-13-17.

**"Invitation for bids"** means all documents, whether attached or incorporated by reference, used for soliciting bids.

**"Offer"** means a response to a solicitation. The term includes a bid, proposal, and quote.

**"Offeror"** means a person that submits an offer to a governmental body

**"Person"** includes an association, a business, a committee, a corporation, a fiduciary, an individual, a joint stock company, a joint venture, a limited liability company, a partnership, a sole proprietorship, a trust, or another legal entity, organization, or group of individuals.

**"Political subdivision"** has the meaning set forth in IC 36-1-2-13.

**"Professional services"** means those services that are within the scope of practice specified by IC 25-4 for architecture, IC 25-31 for professional engineering, or IC 25-21.5 for surveying; or performed by any licensed architect, professional engineer, or professional surveyor in connection with the architect's, engineer's, or surveyor's professional employment or practice.

**"Public construction project"** means the construction, remodeling, rehabilitation, or repair of any building or other facility of a unit of local government, whether the building or facility is owned by the unit or leased by the unit with an option to purchase under IC 36-1-10 or any other law. However, "public construction project" does not mean highway or bridge construction.

**"Public funds"** means money:

1. derived from the revenue sources of the governmental body; and
2. deposited into the general or a special fund of the governmental body.

The term does not include either of the following:

1. Money received by a person under an authorized public-private agreement under IC 5-23.
2. Proceeds of bonds payable exclusively by a private entity

**"Public work"** means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase. The term does not include work involved in an extension or installation of utility infrastructure described in section 1(g) of this chapter.

**"Purchase"** includes buy, procure, rent, lease, or otherwise acquire. The term includes the following activities:

1. Description of requirements.
2. Solicitation or selection of sources.
3. Preparation and award of contract.
4. All phases of contract administration.
5. All functions that pertain to purchasing.

**"Purchasing agency"** means a governmental body that is authorized to enter into contracts by this article, rules adopted under this article, or by another law.

**"Purchasing agent"** means an individual authorized by a purchasing agency to act as an agent for the purchasing agency in the administration of the duties of the purchasing agency.

**"Request for proposals" or "RFP"** means all documents, whether attached or incorporated by reference, used for soliciting proposals.

**"Services"** means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance.

**"Solicitation"** means the procedure by which a governmental body invites persons to submit an offer to enter into a contract with the governmental body for the purchase or sale of supplies by the governmental body. The term includes an invitation for bids, a request for proposals, and a request for quotes.

**"Specifications"** means a description of the physical characteristics, functional characteristics, extent, or nature of any public work required by the board.

**"Subcontractor"** means a person who is a party to a contract with the contractor and furnishes and performs labor on the public work project. The term includes material men who supply contractors or subcontractors.

**"Supplies"** means any property. The term includes equipment, goods, and materials. The term does not include an interest in real property.

**"Unit of local government"** includes any county, city, town, township, and any other political subdivision, commission, or agency created under law. However, the term does not include a school corporation or lesser corporation qualifying under IC 20-47-2 or IC 20-47-3.

**"E-Verify program"** means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s. 403(a), as amended,

operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).

(Ord. 2018-05, passed 6-4-2018)

### **§ 33.02 ESTABLISHMENT OF PURCHASING AGENCY**

(A) The Spencer Town Council, (the "Purchasing Agency"), is established as the purchasing agency for the Town of Spencer.

(B) The Purchasing Agency shall have the powers and duties authorized under I.C. 5-22, as may be supplemented from time to time by ordinances adopted by the Town Council and policies adopted by the Purchasing Agency.

(C) The Purchasing Agency shall act as the Purchasing Agency for every agency, board, office, branch, commission, council, department or other establishment of the Town of Spencer.

(D) The Purchasing Agency may designate, in writing, any employee of the Town of Spencer as a Purchasing Agent.

(Ord. 1998-2, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

### **§ 33.03 ESTABLISHMENT OF PURCHASING AGENT**

The Town of Spencer Purchasing Agency hereby establishes the Clerk-Treasurer as the Purchasing Agent for the Town of Spencer Purchasing Agency.

(Ord. 1998-3, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

**§ 33.04 PURCHASING AGENT-DUTIES AND RESPONSIBILITIES**

The purchasing agent is responsible for maintaining all Requests for Proposal, Quotes, Bids and shall publish any and all notices required by this section in compliance with IC 5-3-1 et seq.

(Ord. 1998-3, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

**PURCHASES-SUPPLIES**

**§ 33.20 POLICIES FOR PURCHASES UNDER \$2500**

(A) , The Purchasing Agent may make purchases for normal operation of the town's business in an amount no greater than \$2,500.

(B) The purchases may be made without inviting or receiving bids or RFPs. These purchases must be made for normal operation of the town's activities.

(C) The amounts must be verified by a purchase order and/or quote prior to approval, unless an emergency exists.

(Ord. 1998-5, passed 10-5-1998)(Am. Ord. 2018-05, passed 6-4-2018)

**§ 33.21 POLICIES FOR PURCHASES LESS THAN \$50,000-REQUEST FOR PROPOSALS**

(A) If the Purchasing Agent or Purchasing Agency deems that a purchase will not exceed \$50,000 then the Purchasing Agent is authorized to solicit proposals through a request for proposals pursuant to the provisions of IC 5-22-9 *et seq.*

(B) The request for proposals must include the following:

- (1) The factors or criteria that will be used in evaluating the proposals.
- (2) A statement concerning the relative importance of price and the other evaluation
- (3) factors.
- (4) A statement concerning whether the proposal must be accompanied by a certified
- (5) check or other evidence of financial responsibility, which may be imposed in
- (6) accordance with rules of the governmental body.

- (7) A statement concerning whether discussions may be conducted with responsible
- (8) offerors, who submit proposals determined to be reasonably susceptible of being
- (9) selected for award.

(C) The Purchasing Agent or Purchasing Agency must give notice pursuant to the provisions of IC 5-3-1 *et seq.*

(D) All proposals will be opened and read aloud in a public meeting as specified in the request for proposals.

(E) The Purchasing Agent must keep a register of all proposals containing the following information:

- (1) A copy of the request for proposals.
- (2) A list of all persons to whom copies of the request for proposals were given.
- (3) A list of all proposals received, which must include all of the following:
  - (4) The names and addresses of all offerors.
  - (5) The dollar amount of each offer.
  - (6) The name of the successful offeror and the dollar amount of that offeror's offer.
  - (7) The basis on which the award was made.
- (8) The entire contents of the contract file except for proprietary information included with an offer, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the request for proposals.

(F) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body, taking into consideration price and the other evaluation factors set forth in the request for proposals.

(G) All RFPs shall be kept for a period of at least ten (10) years.

(IC 5-22-9 *et seq.*) (Am. Ord. 2018-05, passed 6-4-2018)

### **§ 33.22 POLICIES FOR PURCHASES OVER \$50,000, BUT LESS THAN \$150,000- INVITATION TO QUOTE**

- (A) A purchasing agent may purchase supplies by inviting quotes from at least three (3) persons known to deal in the lines or classes of supplies to be purchased.
- (B) The purchasing agent shall mail an invitation to quote at least seven (7) days before the time fixed for receiving quotes.

(C) If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required.

(D) The purchasing agent may reject all quotes.

(E) If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under the special purchasing provisions under §33.23.

(IC 5-22-8 et seq.) (Ord. 2018-05, passed 6-4-2018)

### **§ 33.23 SPECIAL PURCHASE PROCEDURES**

(A) A Purchasing Agent or a Purchasing Agency may use the procedures for special purchases in the following instances:

- (1) When supplies are purchased at an auction
- (2) When there exists, under emergency conditions, threat to the public health, safety, or welfare.
- (3) When a counterterrorism and security council has been established under IC 10-19-8-1 and a purchase made under this section is necessary to preserve security or act in an emergency.
- (4) When a unique opportunity exists to obtain supplies or services at a substantial savings to a governmental body.
- (5) To enter into a contract for data processing or license agreements for software programs or when only one (1) source meets the Town's reasonable requirements.
- (6) When the compatibility of equipment, accessories, or replacement parts is a consideration in the purchase or if only one (1) source meets the Town's reasonable requirements.
- (7) When using another purchasing method provided for in this section would seriously impair the functions of the Town.
- (8) When no offer is received under any other purchasing method provided for in this section.
- (9) For the evaluation of supplies or a system containing supplies in order to obtain functional information or comparative data or for a purpose, than in the judgment of the purchasing agent, may advance the long term competitive position of the governmental body.
- (10) When a government discount is available
- (11) When there is only one (1) source for the supply and purchasing agent determines, in writing, that there is only one (1) source for the supply
- (12) When the supplies or services are being provided as a gift



(13) A purchasing agent may acquire supplies if the purchasing agent determines that the governmental body can obtain the transfer of the supplies from the federal government under IC 4-13-1.7 at a cost less than would be obtained from purchase of the supplies by soliciting for bids or proposals. However, a governmental body may not make a purchase under this section if title to the property will be transferred to the governmental body before a sufficient appropriation to pay the costs of the purchase is appropriated. However, if the supplies will be transferred to the governmental body upon conditional sale or under a lease, a lease with option to purchase, or a contract for the use of the supplies, the governmental body may make the purchase under this section if there are sufficient funds appropriated to pay the consideration required for one (1) year of the agreement. A purchasing agent who purchases or leases surplus federal materials shall, at the time of the purchase or lease, or immediately thereafter, give public notice in accordance with IC 5-3-1.

(B) A purchasing agent shall maintain the contract records for a special purchase in a separate file.

The following shall be included in the file:

- (1) A written determination of the basis for the special purchase and the selection of a particular contractor.
- (2) The contractor's name
- (3) The amount and type of the contract
- (4) A description of the supplies purchased under each contract.

All contracts awarded under this section shall be maintained for a minimum of five (5) years, unless otherwise required by law.

(IC 5-22-9 et seq.)(Ord. 2018-05, passed 6-4-2018)

### **§ 33.24 POLICES FOR PURCHASES OVER \$150,000-INVITATION TO BID**

(A) A Purchasing Agent must issue an invitation to bid when the purchase will exceed \$150,000.

(B) The invitation for bid must contain the following information:

- (1) A purchase description
- (2) All contractual terms and conditions that apply to the purchase
- (3) A statement of the evaluation criteria that will be used, including inspection, testing, quality, workmanship, delivery, suitability for a particular purpose, requirement imposed under IC 5-22-3-5, time and place for opening the bids, a statement concerning whether the bid must be accompanied by a certified check or other evidence of financial responsibility that may be

imposed in accordance with the rules or polices of the Town, and a statement concerning the conditions under which a bid may be cancelled or rejected in whole or in part as specified under IC 5-22-18-2.

(C) Notice of the Invitation for Bid must be provided pursuant to the provisions of IC 5-3-1 and notice may also be provided by electronic access through the computer gateway administered by the office of technology or any other electronic means available to the Town.

(D) All bids must be opened publicly and at the time and place designated in the invitation for bid

(E) Bid Award:

(1) Bids must be unconditionally accepted without alteration or correction and evaluated based upon the requirements provided in the invitation for bid.

(2) All bids must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder

(F) The purchasing agency must maintain the following information and must make available for public inspection:

(1) The name of each bidder

(2) The amount of each bid.

(3) Any other information the purchasing agency deems necessary.

(4) All bids shall be kept for a period of ten (10) years

(IC 5-22-7 et seq.)(Ord. 2018-05, passed 6-4-2018)

### **§ 33.25 PURCHASING PREFERENCES**

(A) An offeror may claim one (1) of the following types of preference for which an offeror is eligible:

(1) An Indiana business preference under IC 5-22-15-20 or IC 4-13.6-6-2.5

(2) A preference for supplies as provided by IC 5-22-15-16, 18, 19 and 24

(3) An Indiana small business preference as provided by IC 5-22-15-23

(4) An Indiana farm product preference as provided by IC 5-22-15-23.5

(B) An offeror who wants to claim a preference provided under this chapter for a given supply item must indicate in the offer what supply item in the offer is a preferred supply.

(C) An offeror who claims a preference for a given supply item must certify that the supply offered meets the qualifications set for preferred supplies.

(D) Promotion of the purchase of supplies manufactured in the United States:

(1) Supplies manufactured in the United States shall be purchased unless any of the following apply:

(a) The supplies are not manufactured in the United States in reasonable available quantities

(b) The price of the supplies manufactured in the United State exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States.

(c) The quality of the supplies is substantially less than the quality of comparable price available supplies manufactured outside the United States.

(d) The purchase of supplies manufactured in the United State is not in the public interest.

(IC 5-22-15 *et seq.*)(Ord. 2018-05, passed 6-4-2018)

## **PUBLIC WORKS PROJECTS**

### **§ 33.40 POLICES FOR PUBLIC WORK PROJECTS EXCEEDING \$150,000**

(A) the Town Board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the Project involves the resurfacing of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.

(B) The Town Board shall publish notice in accordance with IC 5-3-1 and that notice shall include:

(1) A statement that the Board is calling for sealed proposals.

(2) A statement concerning where the plans and specifications can be viewed.

(3) A statement indicating the date and time for receiving bids and the date, time and place for the opening of the bids

(4) A statement concerning the requirement for the bidder to provide a financial statement, a statement of experience, a proposed plan for performance of the public work, the equipment that the bidder has available for performance of the public work and that all such statements shall be provided on the form provided by the Indiana State Board of Accounts.

(5) A statement that the bid will be awarded to the lowest responsive and responsible bidder

(6) A statement that the Board may reject all bids

(7) A statement whether the bidder will be required to post a bid bond or certified check in not more than ten percent (10%) of the contract amount.

(IC 36-1-12 *et seq.*)(Ord. 2018-05, passed 6-4-2018)

**§ 33.41 POLICES FOR PUBLIC WORK PROJECTS LESS THAN \$150,000**

(A) The Town Board may invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that the plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.

(B) The Notice must contain the following:

- (1) A statement indicating the date and time for opening of the quotes
- (2) A statement that the Board may reject all quotes.
- (3) A statement indicating whether the Board will require a bond or certified check in an amount not to exceed ten percent (10%) of the contract price.

(IC 36-1-12 et seq.)(Ord. 2018-05, passed 6-4-2018)

**§ 33.42 ALTERNATE PROCEDURES FOR PROJECTS COSTING LESS THAN \$250,000; PERFORMANCE OF PUBLIC WORK BY OWN WORKFORCE**

(A) A Public Works project for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property, if the cost of the public work is estimated to be less than two hundred fifty thousand dollars (\$250,000);

- (1) The board may award a contract for public work in the manner provided in IC 5-22 ; and
- (2) The Board may perform any public work by means of its own workforce, without awarding a contract

(B) Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work.

(C) For purposes of this subsection, the cost of a public work project includes:

- (1) the actual cost of materials, labor, equipment, and rental;
- (2) a reasonable rate for use of trucks and heavy equipment owned; and
- (3) all other expenses incidental to the performance of the project.

(D) The workforce of a municipality may perform a public work described above only if

(1) if the public works project is estimated to be more than one hundred thousand dollars (\$100,000), the board:

- (a) publishes a notice under IC 5-3-1 that describes the public work that the board intends to perform with its own workforce and sets forth the projected cost of each component of the public work; and
- (b) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce.

(E) A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(IC 36-1-12-3 et seq.)(Ord. 2018-05, passed 6-4-2018)

### **§ 33.43 FUNDS NOT APPROPRIATED OR NOT AVAILABLE, CANCELLATION OF CONTRACT**

When the fiscal body makes a written determination that the funds are not available or otherwise appropriated, the contract may be considered cancelled.

(IC 5-22-17-5)(Ord. 2018-05, passed 6-4-2018)

### **§ 33.44 CONTRACT FOR PETROLEUM PRODUCTS**

- (A) Contracts for Petroleum products must be bid.
- (B) Petroleum products shall include gasoline, fuel oils, lubricants, and liquid asphalt.
- (C) A Purchasing Agent may award a contract for petroleum products to the lowest responsible and responsive offeror or all responsible and responsive offerors.

(IC 5-22-17-10)(Ord. 2018-05, passed 6-4-2018)

### **§ 33.45 CONTRACTS FOR SAND, GRAVEL, ASPHALT, PAVING MATERIALS OR CRUSHED STONE**

- (A) Contracts for sand, gravel, asphalt, paving materials and crushed stone must be bid.
- (B) A Purchasing Agency may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

(IC 5-22-17-11)(Ord. 2018-05, passed 6-4-2018)

**§ 33.46 BOND OR CERTIFIED CHECK; REQUIREMENTS**

- (A) If the cost of the public work project exceeds \$200,000 then a bond or certified check in an amount not to exceed ten percent (10%) of the contract price shall be required.
- (B) If the cost of the public work projects is less than \$200,000 then the Town may require a bond or certified check in an amount not to exceed ten percent (10%) of the contract price.
- (C) Any certified checks will be returned to the unsuccessful bidders upon selection of the successful bidder. Certified checks of successful bidders will be held until delivery of the performance bond.

(IC 36-1-12-4.5) (Ord. 2018-05, passed 6-4-2018)

**§ 33.47 APPROVAL OF PLANS AND SPECIFICATIONS BY LICENSED ARCHITECT OR ENGINEER; FILING OF RECORD DRAWINGS**

- (A) Public work performed or contracted for on a public building, the cost of which is more than one hundred thousand dollars (\$100,000) may be undertaken by the board only in accordance with plans and specifications approved by an architect or engineer licensed under IC 25-4 or IC 25-31.
- (B) All plans and specifications for public buildings must be approved by the state department of health, the division of fire and building safety, and other state agencies designated by statute.
- (C) The board must, within sixty (60) days after the completion of the public work project, file in the division of fire and building safety a complete set of final record drawings for the public work project. However, this requirement does not apply to a public work project constructed at a cost less than one hundred thousand dollars (\$100,000). In addition, the filing of the drawings is required only if the project involves a public building.

(IC 36-1-12 *et seq.*) (Ord. 2018-05, passed 6-4-2018)

**§ 33.48 EMERGENCIES; CONTRACTS BY INVITATION**

(A) The board, upon a declaration of emergency, may contract for a public work project without advertising for bids if bids or quotes are invited from at least two (2) persons known to deal in the public work required to be done.

(B) The minutes of the board must show the declaration of emergency and the names of the persons invited to bid or provide quotes.

(IC 36-1-12-9)(Ord. 2018-05, passed 6-4-2018)

### **§ 33.49 DIVIDING COST OF A SINGLE PUBLIC WORK PROJECT INTO TWO OR MORE PROJECTS; PROHIBITION**

(A) the cost of a public work project includes the cost of materials, labor, equipment rental, and all other expenses incidental to the performance of the project.

(B) The cost of a single public work project may not be divided into two (2) or more projects for the purpose of avoiding the requirement to solicit bids

(IC 36-1-12-19)(Ord. 2018-05, passed 6-4-2018)

## **SERVICES OF ARCHITECTS, ENGINEERS, AND LAND SURVEYORS**

### **§ 33.60 NOTICE OF REQUIREMENT FOR PROFESSIONAL SERVICES**

If the Town determines that there is a need to provide notice for the engagement of professional services the notice must:

(1) Be published in accordance with IC 5-3-1;

(2) Include the location of the project, a general description of the project, general criteria to be used in selecting professional services firms, the place where any additional project descriptions or specifications are on file, the hours of business of the Town, and the last date for accepting statements of qualifications from interested parties.

(IC 5-16-11.1-4)(Ord. 2018-05, passed 6-4-2018)

### **§ 33.61 BASIS FOR CONTRACTS; COMPENSATION**

The Town may make all contracts for professional services on the basis of competence and qualifications for the type of services to be performed and negotiate compensation that the public agency determines to be reasonable.

(IC 5-16-11.1-5)(Ord. 2018-05, passed 6-4-2018)

**§ 33.62      LIMITATIONS OF EMPLOYMENT OF CONSTRUCTION MANAGERS;  
CONTRACTS WITH CONSTRUCTION MANAGERS PROHIBITED**

(A) The Town may not employ the architect or engineer who provided design services on a public construction project or his affiliate, to be the construction manager on the project he designed.

(B) The Town may not let a general contract, or any separate trade contract, to perform work on a public construction project to the construction manager of the project.

(IC 5-16-10-2) (Ord. 2018-05, passed 6-4-2018)

**OTHER PROVISIONS**

**§ 33.80 DUTIES OF OFFERORS OR PROSPECTIVE CONTRACTORS**

(A) Responsibility of Offeror for public works projects:

- (1) The Purchasing Agent shall consider the following factors when determining if an offeror is responsible:
  - a. The ability and capacity of the offeror to provide the supplies or service.
  - b. The integrity, character, and reputation of the offeror.
  - c. The competency and experience of the offeror.
- (2) If a Purchasing Agent determines that an offeror is not responsible, that determination must be made in writing by the purchasing agent.
- (3) If a Purchasing Agent requires additional information to be provided by the offeror, in writing, and the Offeror fails to provide the additional information, then the offeror may not be considered responsible. Any information that is provided by the Offeror in accordance with this section, shall not be disclosed outside the Purchasing Agency without the offeror's prior written consent.
- (4) An offeror must be registered with the Indiana Secretary of State
- (5) If requested by the purchasing agent, an offeror must provide evidence of financial responsibility by bond or certified check in an amount of ten percent (10%) of the contract price or other evidence specified in the solicitation.
- (6) An offeror must file with the Purchasing Agent an affirmation, made under the penalties for perjury, that states the following:



- (1) The offeror has not entered into a combination or an agreement: relative to the price to be offered by a person; to prevent a person from making an offer; or to induce a person to refrain from making an offer.
- (2) The offeror's offer is made without reference to any other offer.

(B) Responsiveness of the Offeror for public works project:

- (1) The purchasing Agent shall consider the following factors when determining if an offeror is responsive:
  - (a) Whether the offeror has submitted an offer that conforms in all material respects to the specifications.
  - (b) Whether the offeror has submitted an offer that complies specifically with the solicitation and the instructions to offerors.
  - (c) Whether the offeror has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(IC 5-22-16 *et seq*) (Ord. 2018-05, passed 6-4-2018)

**§ 33.81 DISQUALIFICATION OF CONTRACTORS DEALING WITH THE GOVERNMENT OF IRAN**

(A) A person is considered to engage in the investment activities in Iran if either of the following is true:

- (1) The person provides goods or services of twenty million dollars (\$20,000,000) or more in value in the energy sector of Iran, including providing any of the following for the energy sector of Iran:
  - (a) Oil or liquified natural gas tankers.
  - (b) Products used to construct or maintain pipelines used to transport oil or liquified
  - (c) natural gas.
- (2) The person is a financial institution that extends twenty million dollars (\$20,000,000) or more in credit to another person, for forty-five (45) days or more, if that other person:
  - a. will use the credit to provide goods or services in the energy sector in Iran; and
  - b. is, at the time the financial institution extends credit, a person identified on the list as a person engaging in investment activities in Iran.

- (3) A person's investment contract with the Indiana public retirement system may not be used as the basis for making a determination under this chapter that the person is engaged in investment activities in Iran.

(IC 5-22-16.5-8) (Ord. 2018-05, passed 6-4-2018)

**§ 33.82      CONTRATOR REQUIREMENTS; ANTIDISCRIMINATION PROVISIONS**

A contract awarded under this chapter must conform to IC 5-16-13 and must conform with the antidiscrimination provision of IC 5-16-6-1. For any violation thereof, the Town may consider it a material breach of the contract.

(IC 36-1-12-15, 5-16-13 *et seq.* & 5-16-6 *et seq.*) (Ord. 2018-05, passed 6-4-2018)

**§ 33.83      DRUG TESTING OF EMPLOYEES OF PUBLIC WORKS CONTRACTS**

Drug testing of employees of public works contractors applies to any public works contract if the estimated cost of the contract exceeds \$150,000.

(IC 36-1-12-24 & 4-13-18 *et seq.*) (Ord. 2018-05, passed 6-4-2018)

**§ 33.84      CONTRACTORS WITH PUBLIC CONTRACT REQUIRED TO USE E-VERIFY PROGRAM**

The Town may not enter into a public works contract for a public works project with a contractor unless the contract contains a provision requiring:

- (A) That the Contractor enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program, and;
- (B) that a contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists; and
- (C) the contractor signs an affidavit affirming that the contractor does not knowingly employ an unauthorized alien.

(IC 22-5-1.7-11.1)(Ord. 2018-05, passed 6-4-2018)

**§ 33.85      CONTRACTS INVOLVING STEEL PRODUCTS**

Unless the head of the purchasing agency makes a written determination that the cost of the contract would be greater than one hundred fifteen (115%) of the cost of the contract without the following requirements of (E)(1) or (2) or the failure to impose the requirements of (E)(1) and (2), would not in any way harm the business of a facility that manufactures steel products in Indiana, or result in the reduction of employment or wages and benefits of employees of that facility, or if the purchase is less than \$10,000) a solicitation must require that if any steel products are used in:

- (1) the manufacture of the supplies required under the contract; or
- (2) supplies used in the performance of the services under the contract by the contractor or a subcontractor of the contractor;

the steel products must be manufactured in the United States.

(IC5-22-17-14) (Ord. 2018-05, passed 6-4-2018)

### **§ 33.86 PUBLICATION OF NOTICES**

Whenever public notice is required, notice shall be given by publication in the manner prescribed by IC 5-3-1.

(IC 5-3-1 *et seq.*) (Ord. 2018-05, passed 6-4-2018)

### **§ 33.87 CANCELLATION OF SOLICITATION; REJECTION OF OFFER**

When the purchasing agent determines it is in the best interests of the governmental body for a solicitation to be canceled; or offers to be rejected, in whole or in part, the reasons for a cancellation of a solicitation or rejection of offers must be made a part of the contract file.

(IC5-22-18-2) (Ord. 2018-05, passed 6-4-2018)

### **§ 33.88 OFFERS OPENED AFTER TIME STATED IN SOLICITATION**

(A) Offers may be opened after the time stated in the solicitation if both of the following apply:

- (1) The Town makes a written determination that it is in the best interest of the governmental body to delay the opening.
- (2) The day, time, and place of the rescheduled opening is announced at the day, time, and place of the originally scheduled opening.

(IC5-22-18-3) (Ord. 2018-05, passed 6-4-2018)



## CHAPTER 34: FINANCES

Section

### ***General Provisions***

- 34.01 Issuance, use and control of credit cards by town employees
- 34.02 Town departments and authority to spend a certain amount
- 34.03 Adoption of Internal Revenue Service Mileage Reimbursement Rate
- 34.04 Internal Control Standards
- 34.05 Materiality Threshold

### ***GENERAL PROVISIONS***

#### **§ 34.01 ISSUANCE, USE AND CONTROL OF CREDIT CARDS BY TOWN EMPLOYEES.**

(A) This section is adopted in compliance with the State Board of Accounts *Accounting and Uniform Compliance Guidelines Manual for Cities and Towns*, Chapter 7, authorizing a town to use credit cards for purchases.

(B) The Clerk-Treasurer of the Town of Spencer is hereby authorized to apply for 1 or more credit cards to be issued in the name of the town and the use thereof by the Clerk-Treasurer, Chief of the Spencer Police Department, Street Department Supervisor and Sewer Department Superintendent. The Clerk-Treasurer is hereby authorized to pay an annual fee if necessary.

(C) Physical possession of the credit cards shall be placed with the Clerk-Treasurer, who shall authorize the use thereof by the Clerk-Treasurer, Chief of the Spencer Police Department, the Street Department Supervisor and Sewer Department Supervisor for the payment of authorized travel expenses and the authorized purchase of goods and services directly related to the operation of their specific department. In each instance of the use of a credit card, once the authorized purpose for which the use of the card is accomplished, physical possession of the card shall be returned to the Clerk-Treasurer.

(D) The Spencer Clerk-Treasurer shall maintain an accounting system, or log, which would include the names of individuals requesting usage of the cards, their title, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned.

(E) Charges are not to exceed \$1,000 per department per month. Charges shall only be made on the credit card to purchase items or services which are authorized and budgeted in the budget of the town.

(F) Within 72 hours of the purchase, the person using the credit card shall provide a copy of the credit card receipt and shall inform the Clerk-Treasurer in writing of the following:

- (1) The purpose of the purchase;
- (2) The budgeted line item from which the purchase is to be paid; and
- (3) An itemized list of all charges incurred and whether those are from a different budget line item.

(G) All credit card billing statements shall be sent by the issuer to the Clerk-Treasurer and the charges on the cards shall be paid by the Spencer Clerk-Treasurer from the appropriate budget line item pursuant to the claim procedures of the town.

(H) The Clerk-Treasurer shall pay the cards promptly so that no interest carrying charges or penalties will be incurred due to late payments. Any department head who causes interest or carrying charges to be added to the credit card account by a failure to timely provide required information to the Clerk-Treasurer shall be personally liable for the interest or carrying charges.

(I) No official or department head shall use the credit card issued to the Town of Spencer for personal transactions.

(Ord. 2006-3, passed 6-19-2006)

#### **§ 34.02 TOWN DEPARTMENTS AND AUTHORITY TO SPEND A CERTAIN AMOUNT.**

(A) The superintendents of town departments have the authority to spend up to \$1,000 without prior approval, to spend from \$1,000 to \$2,000 with approval of the department's liaison Council member, and must have Town Council approval for expenditures above \$2,000. This shall be the total amount of expenditures within a calendar month with the exception of ordinary recurring or emergency situations.

(B) In all instances of expenditures, the Superintendent is to check with the Clerk-Treasurer on availability of funds prior to placing an order. This policy shall be in effect for all departments of the town, including the Street, Sewer, Police, Fire, Building and Parks and/or Recreation Departments. This motion shall be effective upon passage.

(Ord. passed 12-20-2004)

### **§34.03 MILEAGE REIMBURSEMENT RATE**

The rate of reimbursement for officers and employees of the Town of Spencer for actual miles traveled in their own motor vehicles on official business of the Town shall be at the current rate established by the U.S. Internal Revenue Service.

(Ord. passed 9-6-2011)

### **§34.04 INTERNAL CONTROL STANDARDS**

(A) The Town of Spencer, Indiana hereby adopts the Uniform Internal Control Standards for Indiana Political Subdivisions established by the Indiana State Board of Accounts hereby adopted by reference and incorporated herein as if set out in full.

(B) It shall be the duty of the Clerk Treasurer to ensure that all personnel receive training concerning the internal control procedures adopted and approved herein.

(Ord. 2016-06, passed 6-20-2016)

### **§34.05 MATERIALITY THRESHOLD**

The materiality threshold at which point the Town of Spencer shall report incidents of material variances, losses, shortages, or thefts to the State Board of Accounts is \$250.

(Ord. 2016-06, passed 6-20-2016)

### **§34.06 INVESTMENT POLICY**

(A) *Purpose.* The purpose of this policy is to provide investment objectives and guidelines for the management of public funds, to safeguard funds on behalf of the Town, to assure the availability of funds when needed, to encourage investments that earns a competitive rate of return, and, at all times, invest according to and consistent with state law, Ind. Code § 5- 13-9 et seq., as amended.

(B) *Investing officer.* The Town Clerk-Treasurer is hereby designated, for the limited purpose of this Ordinance, as the Town's investing officer and is hereby authorized to invest Town funds in authorized funds or any fund that state statutes, as amended, may deem or consider an authorized fund prior to expiration of this Investment Policy.

(C) *Fiscal Body.* The Town Council, as the fiscal body, is hereby designated the Board of Finance for the Town of Spencer pursuant to the provisions of Indiana Code 5-13-7-5.

(D) Minimum rating. Authorized funds in which the Town's investing officer invests Town funds shall have attained at least the minimum rating required by state statutes, as amended.

(E) State statutes. All investments made by the Town's investing officer shall be made in accordance with Ind. Code § 5-13 et seq.

(F) Maturity date. The Town's investing officer is hereby authorized to make investments up to five (5) years in maturity. This policy authorizes longer term investments defined as more than two (2) years but not more than five (5) years after the date of purchase or entry into a repurchase agreement ("longer term investments") pursuant to Ind. Code § 5-13-9-5.6.

(G) Longer-term investments. The Town's investing officer shall limit total longer-term investments outstanding to not more than twenty-five percent (25%) of the Town's total portfolio, including balances in the Town's transaction accounts. However, an investment is authorized and remains legal even if a subsequent decrease in the Town's total portfolio of public funds invested, including balances in transaction accounts, causes the percentage of longer-term investments outstanding to exceed twenty-five percent (25%) of the Town's total portfolio.

(H) Term of policy.

(1) This Investment Policy is and shall be in effect upon adoption and publication as required by Ind. Code § 5-13-9-5.7 and shall expire on January 1, 2026 (the "Expiration Date"). The power to make investments under this Investment Policy terminates on the Expiration Date.

(2) Investments made in accordance with this Investment Policy that are outstanding on or after the expiration date remain valid investments, and nothing herein shall be construed to render such investments improper or unlawful.

(I) Approval of investment officer. All investments made pursuant to this Investment Policy must be approved by the investing officer.

(J) Investment advisor. The investing officer is hereby authorized to contract with a federally regulated investment advisor or other institutional money manager to make investments under this Investment Policy.

(K) Certificates of deposit (CDs). Certificates of deposits, transaction accounts, and other interest-bearing deposit accounts may be used for investment of Town funds



pursuant to Ind. Code § 5-13-9-5. The investment pool may be invested in negotiable CDs providing that market yields on CDs exceed treasury bills of comparable maturity and duration. All CD investments shall be insured by the FDIC. However, for institutions rated Prime-1, there is no limitation of total investment per institution. Total investment with a non-rated institution is limited to the lesser of ten percent (10%) of the institution's capital and ninety (90) days maximum maturity. In accordance with state law, this subchapter will expire two years from the date this section is adopted.

(L) *Ethics and conflicts of interest.* The Investment Officer and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or which could impair their ability to make impartial decisions. The Investment Officer and employees involved in the investment process shall complete a conflict-of-interest form provided by the Town Attorney affirming that the Investment Officer or employee does not have a pecuniary interest in the Town's investments.

(M) *Reporting.*

(1) The Investing Officer shall make an annual written report to the Town Fiscal Body summarizing the Town's investments during the previous calendar year. The report must contain the name of each financial institution, government agency or instrumentality, or other person with whom the Town invested money during the previous calendar year (Ind. Code § 5-13-7). The Town Fiscal Body shall review the report and review the Town's overall investment policy.

(2) The Town Investing Officer or his or her designee shall review the investment policy at least annually and propose such changes to safeguard funds on behalf of the Town, to assure the availability of funds when needed, and to provide a competitive investment return.

(I.C. 5-13 et seq., Ord 2022-3, Passed 2-7-2022)

### **§34.07 ELECTRONIC FUNDS TRANSFERS**

(A) The Spencer Town Clerk Treasurer is hereby authorized to use electronic funds transfers for official business of the Town of Spencer.

(B) ***Electronic Fund Transfers.*** Electronic fund transfers shall include automated clearinghouse payments (ACH), wire transfers, direct deposit, on-line banking transactions, telephone transfers, and other electronically authorized or implemented transfers or payments.

(C) The Town Clerk Treasurer is hereby authorized and responsible for:

- (1) Selecting the financial institution(s) to be used by the Town of Spencer for electronic funds transfers;
- (2) Overseeing the use of electronic funds transfers for the official business of the Town of Spencer;
- (3) Establishing appropriate security procedures for passwords, codes, controls, and other authorizations to protect and preserve the funds and assets of the Town of Spencer;
- (4) Reviewing all transactions and confirmation in connection with the use of electronic funds transfers for property authorization, documentation, itemization, and purpose.

(D) ***Administration of Payments.*** The Town Clerk Treasurer shall not draw a warrant for an electronic funds transfer unless:

- (1) There is a fully itemized invoice or bill for each expense;
- (2) Each invoice or bill is approved by the Town Employee or Representative receiving the goods or services;
- (3) A proper claim has been filed with the Town Clerk Treasurer;
- (4) The Town Clerk Treasurer audits and certifies before payment that claim is true and correct; and

The payment of the claim is allowed by the Spencer Town Council on the accounts payable register.

(Ord. 2022-16 passed 9-6-2022)

## **CHAPTER 35: MISCELLANEOUS PROVISIONS**

### Section

- 35.01 Police accident fee
- 35.02 Event Registration Form
- 35.03 Complaint Form
- 35.04 Dishonored Check Processing Fee

### **§ 35.01 POLICE ACCIDENT FEE.**

The Town Council of Spencer establishes the fee for accident reports to not be an amount which exceeds the maximum allowable by state law.

(Ord. 2006-3, passed 7-3-2006)

### **§ 35.02 EVENT REGISTRATION FORM.**

To ensure proper coordination of public events of any nature, the sponsoring entity must fill out and submit an event registration form at least 72 hours prior to the planned event and obtain approval of all requested departments of the Town of Spencer

### **§ 35.03 COMPLAINT FORM.**

The Town will respond to complaints, suggestions, or requests concerning the Town's ordinances, procedures, or personnel issues in writing on the form prescribed by the Town of Spencer.

### **§ 35.04 DISHONORED CHECK PROCESSING FEE**

If for any reason any person or entity issues a written check and it comes back to the Town as dishonored by a banking institution, a charge will be issued in the amount of twenty-five dollars (\$25.00). The Spencer Town Clerk-Treasurer, at its discretion, may prohibit such person or entity from presenting any further checks for payment and such person or entity may be required to present cash or money order for all future payments tendered.

(Ord. 2017-01, passed 1-17-2017)



## CHAPTER 36: PERSONNEL POLICY

### Section

36.01 Personnel Policy; adopted by reference

#### **§ 36.01 PERSONNEL POLICY; ADOPTED BY REFERENCE.**

The Town of Spencer's Personnel Policy is hereby adopted by reference and incorporated herein as if set out in full.

(Prior Code, Ch. 3, Art. I through XVII) (Ord. passed - -; Am. Res. 1983-5, passed 6-6-1983; Am. Ord. 1997-4, passed 6-2-1997; Am. Ord. 1997-14, passed 12-1-1997; Am. Ord. 2006-1, passed 1-9-2006; Am. Ord. passed 12-18-2006; Am. Res. 2009-11, passed 6-1-2009; Am. Res. 2012-01, passed 6-4-2012, Am. Res. 2013-7, passed 6-3-13, Am. 2019-03, passed 2-1-2019)

## CHAPTER 37: CAPITAL ASSET POLICY

Section

### ***General Provisions***

- 37.01 General Information
- 37.02 Definition of Capital Assets
- 37.03 Valuation of Capital Assets
- 37.04 Asset Definitions by Major Category
- 37.05 Depreciation Methods
- 37.06 Capital Asset Acquisition
- 37.07 Asset Transfers and Dispositions
- 37.08 Periodic Inventories
- 37.09 Responsibilities of Clerk-Treasurer's Office
- 37.10 Responsibilities of Department Supervisors

### **§ 37.01 GENERAL INFORMATION**

- (A) The Fixed Asset Policy is being issued effective January 1, 2020. The new policy will be referred to as the **Capital Asset Policy**. This Policy is being issued to document the minimum value of capital assets to be reported on our financial reports and to include infrastructure assets. This issuance of a policy document is related to the implementation of a new reporting model, Government Accounting Standards Board Statement 34. Statement 34 will require the Town to depreciate capital assets. The capital asset threshold will be \$3,000. As asset with a value under \$3,000 will be expensed in the year of purchase. The infrastructure portion of this policy is also effective January 1, 2020.
- (B) The Town of Spencer has established a Capital Asset Policy in order to provide a higher degree of control over its considerable investment in capital assets, and to be able to demonstrate accountability to its various constituencies: citizens, rate-payers, oversight bodies and regulators. All public information pertaining to capital assets will be made available in the Comprehensive Annual Financial Report (CAFR) if required.
- (C) The purpose of establishing a Capital Policy is fivefold:
- (1) to safeguard the investments of the citizens of Spencer,

- (2) to fix responsibility for the custody of equipment,
- (3) to provide a basis for formulating capital asset acquisition, maintenance and retirement policies,
- (4) to provide data for financial reporting,
- (5) to demonstrate appropriate stewardship responsibility for public assets.

(D) This policy will only serve to classify capital assets, including fixed and infrastructure, for accuracy in financial reporting through the Indiana State Board of Accounts. It does not include data processing, programming requirements, or computer operations procedures.

(Ord. 2020-09, passed 6-15-2020)

## **§ 37.02 DEFINITION OF CAPITAL ASSETS**

(A) Capital assets include land improvements, including monuments, buildings, building improvements, construction in progress, machinery and equipment, vehicles and infrastructure. All land will be capitalized but not depreciated. All items with a useful life of more than one year and having a unit cost of \$3,000 or more shall be capitalized (including acquisitions by lease-purchase agreements and donated items). A capital asset meeting the criteria will be reported and depreciated in the government-wide financial statements.

(B) Assets that are not capitalized (items < \$3,000) are expensed in the year of acquisition. An inventory will be kept on all computers and other equipment with a capitalized cost of < \$3,000.

(C) Exceptions are:

- (1) items costing less than the above limits which are permanently installed as a part of the cost of original construction or installation of a larger building or equipment unit will be included in the cost of the larger unit,
- (2) modular equipment added subsequent to original equipment construction of a larger building or equipment unit which may be put together to form larger units costing more than the prescribed limits will be charged to capital assets even though the cost of individual items is less than such units,
- (3) cabinets, shelving, bookcases, and similar items, added subsequent to original construction, which are custom made for a specific place and adaptable elsewhere, will be capitalized,

NOTE: Purchases made using grant funds must comply with grant requirements or the above procedures, whichever are the most restrictive.

(D) **Threshold levels for capital assets**

(1) The following schedule will be followed for the different types of capital assets other than infrastructure assets:

**Capitalize/Depreciate**

Land	All/ Capitalize only
Land Improvements	\$3,000
Building	\$3,000
Building improvements	\$3,000
Construction in Progress	All/Capitalize only
Machinery and Equipment	\$3,000
Vehicle	\$3,000
Utility Assets	\$3,000

(E) **Infrastructure**

At the network level, the asset will be classified as major if the cost of the network item is at least 10 % of the cost of all capital assets in fiscal year 2020. A network will be defined as a group of similar assets that serve a particular function or purpose for the Town of Spencer.

At the subsystem level, the asset will be classified as major if the cost of the subsystem item is at least 5% of the cost of all capital assets in fiscal year 2020. A subsystem will be defined as a segment of a network of assets that serve a similar function for the Town of Spencer.

(Ord. 2020-09, passed 6-15-2020)

**§ 37.03 VALUATION OF CAPITAL ASSETS**

(A) Capital assets must be recorded at actual cost. Normally the cost recorded is the purchase price or construction costs of the asset, but also included is any other reasonable and necessary costs incurred to place the asset in its intended location and intended use. Such costs could include the following:

- (1) legal and title fees
- (2) closing costs



- (3) appraisal and negotiation fees
- (4) surveying fees,
- (5) damage payments,
- (6) land preparation costs,
- (7) demolition costs,
- (8) architect, engineering and accounting fees,
- (9) insurance premiums during construction,
- (10) transportation charges,
- (11) interest costs during construction

(B) Donated or contributed assets should be recorded at their fair market value on the date donated.  
(Ord. 2020-09, passed 6-15-2020)

#### **§ 37.04 ASSET DEFINITIONS BY MAJOR CATEGORY**

(A) It is important to the maintenance of accurate records that each asset category be precisely defined and that all persons responsible for records maintenance are fully aware of the categorization system. This section further clarifies the asset definitions by major category.

(1) **Land**

Land is defined as specified land, lots, parcels or acreage including rights of way, owned by the Town of Churubusco, its various departments, boards or authorities, regardless of the method or date of acquisition. Easements will not be included as the Town does not own them, but as an interest in land owned by another (i.e. property owner) that entitles its holder to a specified limited use.

(2) **Improvements Other Than Buildings**

- a) Examples of Civil City assets in this category are walks, parking areas and drives, fencing, retaining walls, pools, fountains, planters, underground sprinkler systems, and other similar items.
- b) Examples of Town Utilities assets in this category are water supply mains, collection sewers, wells, dams, fences, intake pipes, manholes, and fire hydrants.

(3) **Buildings**

- a) All structures designed and erected to house equipment services, or functions are included. This includes systems, services, and fixtures within the buildings, and

attachments such as porches, stairs, fire escapes, canopies, areaways, lighting fixtures, flagpoles, and all other such units that serve the building.

- b) Plumbing systems, lighting systems, heating, cooling, ventilating and air handling systems, alarm systems, sound systems, surveillance systems, passenger and freight elevators, escalators, built-in casework, walk-in coolers and freezers, fixed shelving, and other fixed equipment are included with the building, if owned. Communication antennas and/or towers are not included as buildings. These are parts of the equipment units that they serve.

(4) **Equipment**

Equipment includes all other types of physical property within the scope of the Fixed Asset Management System not previously classified. Included within this category are office mechanical equipment, office furniture, appliances, furnishings, machinery items, maintenance equipment, communication equipment, police and park department, laboratory equipment, vehicles, road equipment, aircraft, emergency equipment, and data processing equipment. All supplies are excluded.

**Infrastructure**

- a) Infrastructure assets are long-lived capital assets that normally can be preserved for a significant greater number of years than most capital and that are normally stationary in nature. Examples include roads, streetlights, traffic signals, drainage systems, and water systems. Infrastructure assets do not include buildings, drives, parking lots or any other examples given above that are incidental to property or access to the property above.
- b) Additions and improvements to infrastructure, which increase the capacity or efficiency of the asset, will be capitalized. Maintenance/repairs will be considered as necessary to maintain the existing asset, and therefore not capitalized. For example, patching, resurfacing, snow removal, ect., are considered maintenance activities and will be expensed. Also, normal department operating activities such as feasibility studies, and preliminary engineering and design, will be expensed and not capitalized as an element of the infrastructure asset.

(Ord. 2020-09, passed 6-15-2020)

## § 37.05 DEPRECIATION METHODS

- (A) The Town will be depreciating capital assets by using either composite/group method depreciation or the straight-line method.
- (B) Salvage value will be determined on an asset-by-asset basis. Depreciation will be calculated at year-end. Land is not depreciated according to general accepted accounting principles.
- (C) A network of assets is composed of all assets that provide a particular type of service for government. A subsystem of a network of assets is composed of all assets that make a similar portion or segment of a network of assets. The following will be the breakdown of our networks and subsystems:

### Roads/Streets Network

Subsystems: Types of Streets

Curbs

### Traffic Components Network

Subsystems: Traffic Signals

Street Lights

## (D) Straight-line Depreciation

All assets accounted for under the Capital Asset Policy will be depreciated using the straight-line method of depreciation. A gain or loss on disposal will be recorded. Following is a list of the most common useful lives:

- Vehicles – 5 years
- Office Equipment – 5 years
- Office Furniture – 20 years
- Heavy Equipment – 10 years
- Buildings – 50 years
- Building Components (HVAC systems, roofing) – 20 years
- Leasehold Improvements – useful life of asset or lease term (whichever is shorter)
- Land Improvements – structure (parking lots, athletic courts, swimming pools) – 20 years
- Land Improvements – ground work (golf course, athletic fields, landscaping, fencing) – 20 years

- Outdoor Equipment – (playground equipment, radio towers) – 15 years)
- Ground Equipment – (mowers, tractors, attachments) – 15 years
- Computer Hardware – 3 years
- Computer Software – 5 years

Town Utilities' useful lives are as follows:

- Buildings and Improvements – 50 years
- Sewer Lines – 50 years
- Combined Sewer Overflow – 50 years
- Lift Station – 50 years
- Treatment Plant/Equipment – 10 years
- Office Equipment – 5 years
- Miscellaneous Operating Equipment – 5 years
- Vehicles – 5 years

(Ord. 2020-09, passed 6-15-2020)

### **§ 37.06 CAPITAL ASSET ACQUISITIONS**

(A) The method of acquisition is not a determining factor. Each department should report items acquired by:

- Regular purchases,
- Lease purchase – see below
- Construction by Town personnel,
- Construction by an outside contractor,
- Resolution/condemnation,
- Donation/contribution,
- Addition to an existing asset,
- Transfer from another department,
- Trade or barter,
- Annexation

(B) Leased equipment should be capitalized if the lease agreement meets any one of the following criteria:

- The lease transfers ownership of the property to the lessee by the end of the lease term
- The lease contains a bargain purchase option

- The lease term is equal to 75 percent of the estimated economic life of the leased property
- The present value of the minimum lease payments at the inception of the lease, excluding executory costs, equal at least 90 percent of the fair value of the leased property.

(C) Leases that do not meet any of the above criteria should be recorded as an operating lease and reported in the notes of the financial statements.

(Ord. 2020-09, passed 6-15-2020)

### **§ 37.07 ASSET TRANSFERS AND DISPOSITIONS**

(A) Property should not be transferred, turned-in for auction, or disposed of without prior approval of the department head. A Vehicle/Equipment out processing checklist should be sent to the Clerk Treasurers Office in all cases. This form is a dual-purpose form for transfer (defined as any movement of an asset by virtue of change in location, either by account, department, building, floor, or room) or retirement (disposal) of property.

- Always provide sufficient detail to properly identify the asset, most importantly the asset's tag number, VIN, or Town ID
- Be accurate and do not overlook any of the needed entries
- Write legibly
- Complete each column for every asset listed on the form
- Enter information in correct row, depending on whether you are transferring or deleting an asset
- have Department Head sign at the bottom of the form
- return the form to the Town Clerk-Treasurer's Office

(B) If an asset is stolen, the department should notify the Department Head as well as the Clerk Treasurers office.

(Ord. 2020-09, passed 6-15-2020)

### **§ 37.08 PERIODIC INVENTORIES**

A physical inventory of all capital assets (any item over \$3,000) will be conducted in each department on or about December 31 of every year. The Town Clerk's office will conduct spot checks on random

basis. Department heads will be accountable for the capital asset inventory charged to their departments by verifying a list of their capital assets at year-end.

(Ord. 2020-09, passed 6-15-2020)

### **§ 37.09 RESPONSIBILITIES OF CLERK-TREASURER'S OFFICE**

The Fiscal Officer will ensure that accounting for capital assets is being exercised by establishing a capital asset inventory, both initially and periodically in subsequent years. The Fiscal Officer will further ensure that the capital asset report will be updated annually to reflect additions, retirements, and transfers and to reflect the new, annual capital asset balance for financial reporting purposes and the annual and accumulated depreciation calculation.

(Ord. 2020-09, passed 6-15-2020)

### **§ 37.10 RESPONSIBILITIES OF DEPARTMENT SUPERVISORS**

- (A) It is the responsibility of the department supervisor to act as or designate a steward for each piece of property. The steward will become the focal point for questions regarding the availability, condition, and usage of the asset, as well as the contact during the physical inventory process.
- (B) Someone should be designated to record the receipt of the asset, to examine the asset to make sure that no damage was incurred during shipment and to make sure that the asset was received in working order.
- (C) The steward is also responsible for arranging for the necessary preventative maintenance and any needed repairs to keep the asset in working condition. It is necessary to have a responsible person available for questions that arise during a physical inventory or when someone wants to borrow the asset. The steward ensures that the asset is used for the purpose for which it was acquired and that there is no personal or unauthorized use. In addition, the steward should report any property damage or theft.

(Ord. 2020-09, passed 6-15-2020)