

## Chapter 10

### **BUILDINGS AND BUILDING REGULATIONS\***

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\***Cross references** - Any ordinance regarding construction of public works saved from repeal, § 1-9(24); floods, ch. 14; health and sanitation, ch. 18; fire prevention, § 38-71 et seq.; solid waste, ch. 42; subdivisions and platting, ch. 46; utilities, ch. 54; zoning, ch. 58.

## SPRING VALLEY CODE

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**ARTICLE I. IN GENERAL****Secs. 10-1 – 10-20. Reserved****ARTICLE II. BUILDING CODE****Sec. 10-21. Established.**

(a) *Purpose.* This article provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and use of materials in buildings and/or structures erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished after the effective date of the ordinance from which this chapter is derived and regulates the equipment, maintenance, use and occupancy of all such buildings and/or structures. The purpose of this article is to protect and foster the health, safety and well-being of persons occupying such buildings and the general public.

(b) *Scope.* New buildings erected in, or any building moved within or into the village after the effective date of the ordinance from which this chapter is derived shall conform to all of the requirements of this article, except as they are specifically exempted from part or all of its provisions. Any alteration, enlargement or demolition of a building and any installation therein of electrical, gas, heating, plumbing or ventilation equipment which affects the health or safety of the users thereof or any other persons is a new building, to the extent of such change. Any building existing on the effective date of the ordinance from which this chapter is derived shall be considered a new building for the purposes of this article whenever it is used for dwelling, commercial or industrial purposes, unless it was being used for such purposes at the time the ordinance from which this chapter is derived was enacted. The provisions of this article supplement the laws of the state pertaining to construction and use and chapter 58, pertaining to zoning, and amendments thereto, to the date the ordinance from which this chapter is derived was adopted, and in no way supersede or nullify such laws and chapter 58.

(Code 1988, § 10-4-1)

**Sec. 10-22. Building permits and inspections.**

(a) *Permit required.*

(1) *General permit requirement.* No building of any kind shall be moved within or into the village and no new building or structure, or any part thereof, shall hereafter be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the village, except as herein provided, until a permit therefore shall first have been obtained by the owner or his authorized agent, from the village administrator. As a portion of each general building permit cost there shall be added a Park Fee of \$200.00 per individual residential dwelling unit intended to be constructed under any building permit applied for. Said Park Fees shall be attributable to and charged for new construction only.

(2) *Additions, alterations and repair.* The following provisions shall apply to all additions, alterations and repair of buildings:

- (a) Additions, alterations and repair to any building within the village shall require a building permit and be made to comply with current codes as determined by the village administrator who shall consider issues of life safety, structural or occupancy overload and other hazards.
- (b) Exempt work. A building permit is not required for the following work:
  - (1) One story detached accessory structures not on a permanent foundation and under one hundred fifty (150) square feet in projected roof area; All accessory structures shall be anchored and maintain all setback requirements per section 58 Zoning of this municipal code.
  - (2) Fences less than or equal to six (6) feet in height.
  - (3) Landscape retaining walls which do not affect the structural integrity of a structure.
  - (4) Platforms, patios and walks set on, or within eight (8) inches of finished grade.
  - (5) Decorating work such as painting, papering or carpeting.
  - (6) Minor repairs and alterations which do not change occupancy, area, structural strength, fire protection, ingress and egress, natural light and ventilation.
  - (7) Replacement of roof shingles.
  - (8) Replacement or repair of bathroom or kitchen fixtures and faucets.
  - (9) Replacement of electrical outlets and light fixtures.
  - (10) Replacement of furnace filters and grilles which serve a cold air return or warm air supply.
- (c) *Alteration or moving of nonconforming buildings or structures.* When any building or structure existing on the effective date of the ordinance from which this chapter is derived, which, for any reason whatsoever, does not conform to the regulations of this chapter, has deteriorated from any cause to an extent greater than 50 percent of the equalized value of the building or structure, no alterations or moving of such building or structure shall be permitted. Any such building or structure shall be considered a menace to public safety and welfare, and shall be ordered vacated and thereafter demolished and debris removed from the premises.
- (d) *Restoration of deterioration.* When any of the structural members of any building or structure have deteriorated from any cause to less than their required strength, the owner of such building or structure shall cause such structural members to be restored to their required strength. If the owner shall fail to make such restoration, the building or structure shall be considered a menace to public safety, and shall be vacated and thereafter no further occupancy or use of the building or structure shall be permitted until the regulations of this chapter are complied with.
- (e) *Determination of amount and extent of deterioration.* The amount and extent of

deterioration of any existing building or structure shall be determined by the village administrator.

(b) *Permit application.* Application for a building permit shall be made in writing upon a form furnished by the village administrator, and shall state the name and address of the owner of the land the owner is building, if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which such building is to be put and such other information as the village administrator may require.

(c) *Dedicated street and subdivision approval required.* No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes. No building permit shall be issued until the subdivision and required improvements are accepted by the village board.

For purpose of this subsection, “street” shall mean a public roadway located within the corporate limits of the Village of Spring Valley. However, should the property upon which an individual or entity wishes to build upon not abut an existing Village of Spring Valley public roadway but, rather, abuts an adjoining township or governmentally owned roadway, no such building permit shall be issued until such a time as the person or entity intending to so build obtains from the governmental entity owning the abutting roadway its written consent to construct a driveway or roadway accessing said property. A copy of said written consent as so obtained shall be filed with the Village Administrator for the Village of Spring Valley. Regardless of the location of any such intended street, roadway or driveway, and regardless of whether such street, roadway or driveway connects to a Village of Spring Valley street or public roadway maintained by the Village of Spring Valley, all such driveways and roadways shall comply with all roadway and driveway requirements pertaining to those streets, roadways and driveways abutting and/or adjoining Village owned streets and roadways located within the Village of Spring Valley including, but not limited to, those requirements concerning pavement, curb and gutter.

(d) *Utilities required.*

(1) *Residential buildings.* No building permit shall be issued for the construction of any residential building until sewer, water, grading and graveling are installed in the streets which are necessary to service the property for which the permit is required and a receipt for payment of electrical hookup is presented to the building inspector.

(2) *Nonresidential buildings.* No building permit shall be issued for the construction of any building other than residential until contracts have been let for the installation of sewer, water, grading and graveling in the streets which are necessary to service the property for which the permit is requested.

(3) *Certificate of occupancy.* No person shall occupy any building until sewer, water, grading and graveling are installed in the streets which are necessary to service the property and a certificate of occupancy shall not be issued until such utilities are available to service the property.

(e) *Plans.* There shall be submitted with the permit application a complete set of plans and specifications, including a plot plan, showing the location of the proposed building with respect to adjoining roads, highways, streets, alleys, lot lines and buildings. Plans for buildings involving the state

building code shall bear the stamp of approval of the state department of commerce. One plan shall be submitted, which shall remain on file in the office of the village administrator. All plans and specifications shall be signed by the designer. Plans for new one- and two-family dwellings shall comply with the provisions of Wis. Admin. Code § Comm 20.09(4).

(f) *Minor repairs; waiver of plans.* If the village administrator finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving. No building permit shall be necessary if, in the opinion of the village administrator, the fair market value of the repairs is less than \$500.00

(g) *Approval of plans.*

(1) If the village administrator determines that the building will comply with all ordinances and orders of the village and all applicable laws and orders of the state, he shall issue a building permit, which shall state the use to which such building is to be put, and such permit shall be kept and displayed at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves the safety of the building or its occupants, except with the written consent of the village administrator.

(2) In case adequate plans are presented for part of the building only, at his discretion, the village administrator may issue a permit for such part of the building before receiving the plans and specifications for the entire building.

(h) *Lapse and voiding of permits.* A building permit shall lapse and be void unless building operations are commenced within six months or construction has not been completed within one year from the date of issuance of such permit.

(i) *Revocation of permits and certificates of occupancy.*

(1) The village administrator may revoke any building, plumbing or electrical permit, certificate of occupancy or approval issued under the regulations of this chapter, and may stop construction or use of approved new materials, equipment, methods or construction, devices or appliances for any of the following reasons:

(a) Whenever the village administrator shall find, at any time, that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after a written warning had been issued to him.

(b) Whenever the continuance of any construction becomes dangerous to life or property.

(c) Whenever there is any violation of any condition or provision of the permit application or of the permit.

(d) Whenever, in the opinion of the village administrator, there is inadequate supervision provided on the job site.

(e) Whenever any false statement or misrepresentation has been made in the permit application, plans, drawings, data specifications or certified lot or plot plans on which the issuance of the permit approved was based.

- (f) Whenever there is a violation of any of the conditions of an approval or occupancy given by the village administrator for the use of all new materials, equipment, methods or construction, devices or appliances.
- (2) The notice revoking a building, plumbing or electrical permit or certificate of occupancy or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his agent, if any, and on the person having charge of construction.
- (3) A revocation placard shall also be posted by the village administrator upon the building structure, equipment or premises in question.
- (4) After the notice is served upon the persons and posted as set forth in this subsection (i), it shall be unlawful for any person to proceed with any construction operation on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this chapter, shall be procured and fees paid therefore, and thereafter, the resumption of any construction or operation shall be in compliance with the regulations of this chapter. However, such work as the village administrator may order as a condition precedent to the reissuance of the building permit may be performed or as he may require for the preservation of life and safety.
- (j) *Reports of violations.* Law enforcement or other village officers shall, at once, report to the village administrator any building which is being carried on without a permit as required by this chapter. (Code 1988, § 10-4-2; Ord. of 12-1-2004)

### **Sec. 10-23. State uniform dwelling code.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Addition* means new construction performed on a dwelling which increases the outside dimensions of the dwelling

*Alteration* means a substantial change or modification, other than an addition or minor repair, to a dwelling or systems involved within a dwelling.

*Department* means the State department of commerce.

*Dwelling* means:

- (1) Any building, the initial construction of which is commenced on or after the effective date of the ordinance from which this chapter is derived, which contains one or two dwelling units; or
- (2) A structure, or part thereof, existing after the effective date of the ordinance from which this chapter is derived, which is used, or intended to be used, as a one- or two-family dwelling.

*Minor repair* means a repair performed, for maintenance or replacement purposes, on any existing one- or two-family dwelling, which does not affect room arrangement, light and ventilation, access to or efficiency of any exit stairway or exit, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use. No building permit is required for work to be performed which is deemed a minor repair.

*One- or two-family dwelling* means a building or structure which contains one household or separate households, and is intended to be used as a home, residence or sleeping place by an individual or two or more individuals maintaining a common household to the exclusion of all others.

*Person* means an individual, partnership, firm or corporation.

*Uniform dwelling code* means the administrative code provisions, and any future amendments, revisions or modifications, contained in the following chapters of the Wisconsin Administrative Code:

- (a) Wis. Admin. Code ch. Comm 20 – Administrative and Enforcement.
- (b) Wis. Admin. Code ch. Comm 21 – Construction Standards.
- (c) Wis. Admin. Code ch. Comm 22 – Energy Conservation Standards.
- (d) Wis. Admin. Code ch. Comm 23 – Heating, Ventilating and Air Conditioning.
- (e) Wis. Admin. Code ch. Comm 24 – Electrical Standards.
- (f) Wis. Admin. Code ch. Comm 25 – Plumbing and Potable Water Standards.

(b) *Adopted.* The administrative code provisions describing and defining regulations with respect to one- and two-family dwellings in Wis. Admin. Code chs. Comm 20-25 are adopted and, by reference, made a part of this section as if fully set forth in this section. Any act required to be performed or prohibited by an administrative code provision incorporated in this section by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the administrative code provisions incorporated in this section are intended to be made part of this section to secure uniform statewide regulation of one- and two-family dwellings within the village. A copy of the administrative code provisions and any future amendments shall be kept on file in the office of the village administrator.

(c) *Existing buildings.* The state uniform dwelling code shall also apply to the following buildings and conditions:

- (1) Where an existing building is to be occupied as a one- or two-family dwelling, which building was not previously occupied as such.
- (2) An existing structure which is altered or repaired, when the cost of such alteration or repair during the life of the structure exceeds 50 percent of the equalized value of the structure, and such value shall be determined by the village assessor.
- (3) Additions and alterations, regardless of the cost, made to an existing building, when deemed necessary in the opinion of the village administrator, shall comply with the requirements of this article for new buildings. The provisions of section 10-2 shall also apply.
- (4) Whenever more than 25 percent of the roof covering a building is replaced in any 12-month period, such roof covering shall be in conformity with applicable sections of this article.
- (5) Any addition or alteration, regardless of the cost, made to a building shall be made in conformity with applicable sections of this article.

(d) *Inspections.* The building inspector or other authorized building inspectors of the village may, at all reasonable hours, enter upon any public or private premises for inspection purposes, and may require the production of the permit for any building, plumbing, electrical or heating work. No person shall



interfere with, or refuse to permit access to any such premises to, the village administrator or his agent while in the performance of his duties.

- (1) *Certified inspector.* The Village of Spring Valley provides a building inspector certified for inspection purposes by the department in each of the categories specified under ILHR 26.06, Wis. Admin. Code, and by the Department of Health and Social Services in the category of plumbing.

(Code 1988, § 10-4-3; Ord. of 5-3-2000)

#### **Sec. 10-24. Construction standards; adoption of codes.**

(a) *Portions of state building code adopted.* Wis. Admin. Code chs. Comm 50-64 (state building code) are adopted and made a part of this section with respect to the classes of buildings to which such building code specifically applies. Any future amendments, revisions and modifications of Wis. Admin. Code chs. Comm 50-64 incorporated in this section are intended to be made a part of this section. A copy of Wis. Admin. Code chs. Comm 50-64, and amendments thereto, shall be kept on file in the office of the building inspector.

(b) *State plumbing code adopted.* The provisions and regulations of . Wis. Stats. ch. 145, and . Wis. Admin. Code ch. Comm 25 are made a part of this section by reference, and shall extend over and govern the installation of all plumbing installed, altered or repaired within the village. Any future amendments, revisions and modifications of statutes and the administrative code adopted in this subsection are intended to be made a part of this section.

(c) *State electrical code adopted.* Wis. Admin. Code ch. Comm 24 is adopted by reference and made a part of this section, and shall apply to the construction and inspection of new one- and two-family dwellings and additions or modifications to existing one- or two-family dwellings.

(d) *Conflicts.* If, in the opinion of the village board, the provisions of the state building code adopted by subsection (a) of this section shall conflict with the provisions of the Federal Housing Administration standards in their application to any proposed building or structure, the building inspector and/or the village shall apply the most stringent provisions in determining whether or not the proposed building meets the requirements of this section.

(Code 1988, § 10-4-4)

#### **Sec. 10-25. New materials, methods of construction and devices.**

(a) All materials, methods of construction and devices designed for use in buildings or structures covered by this chapter and not specifically mentioned in or permitted by this chapter shall not be used until approved in writing by the state department of commerce for use in buildings or structures covered by the state building code, except sanitary appliances, which shall be approved in accordance with the state plumbing code.

(b) When approved, such materials, methods of construction and devices must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the state department of commerce. The data, tests and other evidence necessary to prove the merit of such materials, methods of construction and devices shall be determined by the state department of

commerce.

(Code 1988, § 10-4-5)

### **Sec. 10-26. Unsafe buildings.**

Whenever the village board, in its judgment, finds any building, or part thereof, within the village to be so old, dilapidated or out of repairs as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy or use, and that it would be unreasonable to repair such building, or part thereof, or, if it can be made safe by repairs, to repair and make safe and sanitary, or raze and remove such building, or part thereof, at the owner's option. Such order and proceedings shall be as provided in Wis. Stats. § 66.0413. (Code 1988, § 10-4-6)

### **Sec. 10-27. Inspection disclaimer.**

The purpose of any inspection under this chapter is to improve the quality of housing within the village. The inspections, and reports and findings issued after such inspections, are not intended, nor are they to be construed, as a guarantee. In order to advise owners and other interested persons, the following disclaimer shall be included in each inspection report:

These findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied.

(Code 1988, § 10-4-7)

### **Sec. 10-28. Garages.**

Private garages shall be built in accordance with the general construction standards established in the State Uniform Dwelling Code.

(Code 1988, § 10-4-8)

### **Sec. 10-29. Razing buildings.**

(a) *Permit required.* No building within the village shall be razed without a permit from the village administrator. A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed, and shall remain during razing operations. After all razing operations have been completed, the foundation shall be filled at least one foot above the adjacent grade, the property raked clean and all debris hauled away. Razing permits shall lapse and be void unless the work authorized by such permits is commenced within six months from the date thereof or within 30 days from the date of commencement of the work. Any unfinished portion of work remaining beyond the required 30-day period must have special approval from the village administrator.

(b) *Debris; rodents and insects.* All debris must be hauled away at the end of each day for work that was done on that day. No combustible material shall be used for backfill, but shall be hauled away. There shall be no burning of materials on the site of the razed building. If any razing or removal operation under this section results in, or would likely result in, an excessive amount of dust particles in the air creating a nuisance in the vicinity, the permittee shall take all necessary steps, by use of water,

spraying or other appropriate means, to eliminate such nuisance. Prior to the razing of a building, the permittee shall take all necessary steps, through the employment of a qualified person in the field of pest control or by other appropriate means to treat the building so as to prevent the spread and migration of rodents and insects from such building during and after the razing operations.

(Code 1988, § 10-4-9)

### **Sec. 10-30. Basements; excavations.**

(a) *Completion of basement subflooring.* First floor subflooring shall be completed within 60 days after a basement is excavated.

(b) *Fencing of excavations.* The owner of any premises on which there exists an opening or excavation which is located in close proximity to a public sidewalk or street right-of-way so as to constitute a hazard to pedestrian or vehicular traffic shall erect a fence, wall or railing at least four feet high, between such opening or excavation and the public right-of-way.

(c) *Closing of abandoned excavations.* Any excavation for building purposes or uncovered foundation which shall remain open for more than three months shall be deemed to be abandoned and a nuisance, and the village administrator shall order that suitable safeguards be provided to prevent accidental injury to children or other frequenters or that the excavation or foundation be filled to grade, unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith. Such orders shall be served upon the owner of record or his agent where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and publication in the official newspaper for two consecutive publications, at least ten days before the time for compliance stated in the order commences to run. Such time shall not be less than 14 days, nor more than 20 days after service. If the owner of the land fails to comply with the order within the time required, the village administrator shall cause the excavation or foundation be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge, and shall bear interest at a rate established by the village board from the date of the report by the village administrator, or the cost thereof, pursuant to statute.

(Code 1988, § 10-4-10)

### **Sec. 10-31. Clear waters.**

(a) *Discharge into sanitary sewers.* No person shall cause, allow or permit any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purpose of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises owned or occupied by such person to discharge into a sanitary sewer.

(b) *Nuisance.* The discharge into a sanitary sewer from any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purpose of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises is a public nuisance and a hazard to the health, safety and well-being of the residents of the village and to the protection of the property.

(c) *Groundwater.* Where deemed necessary by the village board, every house shall have a sump pump installed for the purpose of discharging clear waters from foundation drains and ground infiltration, and where the building is not serviced by a storm sewer, such waters shall either be discharged into an underground conduit leading to a drainage ditch, gutter or dry well or onto the ground surface in such a manner as it will not constitute a nuisance as defined in subsection (b) of this section.

(d) *Stormwater.* All roof drains, surface drains, drains from any mechanical devices, gutters, pipes, conduits, or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging stormwaters shall be discharged either to a storm sewer, dry well, underground conduit leading to a drainage ditch or onto the ground surface in such a manner as it will not constitute a nuisance as defined in subsection (b) of this section.

(e) *Storm sewer lateral.* Where municipal storm sewers are provided, and it is deemed necessary by the property owner and/or the village to discharge clear waters from a parcel of land, a storm sewer lateral shall be installed and connected to the storm sewer main, at the expense of the owner.

(f) *Conducting tests.* If the village administrator or his designated agent suspects an illegal clear water discharge as defined by this section or any applicable provision of the Wisconsin Administrative Code, as amended from time to time, he may, upon reasonable notice and at reasonable times, enter the private premises where such an illegal clear water discharge is suspected and conduct appropriate tests to determine whether such suspected illegal clear water discharge actually exists.

(Code 1988, § 10-4-11)

### **Sec. 10-32. Duplex service connections.**

Each duplex unit shall have separate water and sewer services.

(Code 1988, § 10-4-12)

### **Sec. 10-33. Moving buildings.**

(a) *General requirements.*

- (1) No person shall move any building or structure upon any of the public ways or the village without first obtaining a building permit from the village administrator and the payment of the required fee as set by the village board from time to time and on file in the village offices. Every such permit issued by the village administrator for the moving of a building shall designate the route to be taken and the conditions to be complied with and shall limit the time during which such moving operations shall be continued.
- (2) A report shall be made by the public works department with regard to possible damage to trees. The estimated cost of trimming, removing and replacing public trees, as determined by the public works department, shall be paid to the village administrator prior to the issuance of the moving permit.
- (3) Issuance of a moving permit shall be further conditioned on approval of the moving route by the chief of police.

(b) *Continuous movement required; lights.* The movement of buildings shall be a continuous operation during all of the hours of the day and night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.

(c) *Street repair.* Every person receiving a permit to move a building shall, within one day after such building reaches its destination, report such fact to the village administrator, inspect the street, highways and curbs and gutters over which such building has been moved and ascertain their condition. If the removal of the building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place such street or highway in as good repair as before the permit was granted. On the failure of the permittee to make such repairs within ten days thereafter to the satisfaction of the village board, the village shall repair the damage done to such streets and hold the person obtaining the permit and the sureties on his bond responsible for the payment of such repair.

(d) *Conformance required.* No permit shall be issued to move a building within or into the village and to establish the building upon a location within the village until the village administrator has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that the building is in a sound and stable condition and of such construction that it will meet the requirements of this chapter, in all respects. A complete plan of all further repairs, improvements and remodeling of such building shall be submitted to the village administrator, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this chapter and that, when the repairs, improvements and remodeling are complete, the building will comply with this chapter. If a building is to be move from the village to a point outside the boundaries of the village, the provisions of this subsection with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.

(e) *Bond.*

(1) Before a permit is issued to move any building over any public way within the village, the party applying for such permit shall give bond to the village in a sum to be fixed by the village administrator which shall not be less than \$1,000.00. Such bond shall be executed by a corporate surety or two personal sureties, to be approved by the village board or their designated agent, conditioned upon, among other things, the indemnification to the village for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment, together with the costs and expenses incurred by the village in connection therewith arising out of the removal of the building for which the permit is issued.

(2) Unless, upon investigation, the village administrator shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling of travelers into such excavation, or the location, nature and physical characteristics of the premises and the exposed excavation so as to make intrusion upon the premises and the falling into such excavation of children under 12 years of age unlikely, the bond required by subsection (e)(1) of this section shall be further conditioned upon the permittee erecting adequate barriers and, within 48 hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the village

administrator and reasonably adopted or calculated to prevent the occurrences set forth in this subsection.

(f) *Insurance.* In addition to the bond indicated in subsection (e) of this section, the village administrator shall require public liability insurance covering injury to one person in the sum as set by the village board from time to time and on file in the village offices, and for one accident in a sum not less than as set by the village board from time to time and on file in the village offices, together with property damage insurance in a sum not less than as set by the village board from time to time and on file in the village offices, or such other coverage, as deemed necessary.

(Code 1988, § 10-4-13)

**Cross reference** – Public safety and public works, ch. 38.

#### **Sec. 10-34. Fees**

The fees for building permits shall be determined by resolution of the village board.

(Code 1988, § 10-4-14)

#### **Sec. 10-35. Severability.**

If any section, clause, provision or portion of this article or the Wisconsin Administrative Code adopted by reference is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

(Code 1988, § 10-4-15)

#### **Sec. 10-36. Violations; penalties.**

(a) Any building or structure erected, enlarged, altered or repaired or any use established after the effective date of the ordinance from which this article is derived and which is in violation of the provisions of this article shall be deemed an unlawful building, structure or use. The village administrator shall promptly report all such violations to the village board and village attorney, who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use, or to cause any such building, structure or use to be removed. Such building, structure or use may also be subject to a penalty as provided in section 1-27. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the village administrator constitute a defense. Compliance with the provisions of this chapter may also be enforced by injunctive order at the suit of the owners of any real estate within the jurisdiction of this article.

(b) (1) If an inspection reveals a noncompliance with this article or the Uniform Dwelling Code, the village administrator shall notify the applicant and the owner, in writing, of the violation to be corrected. All cited violations shall be corrected within 30 days after written notification, unless an extension of time is granted pursuant to Wis. Admin. Code § Comm 20.10(1)(c).

(2) If, after written notification, the violation is not corrected within 30 days, a stop work order may be served on the owner or his representative, and a copy thereof shall be posted at the construction site. Such stop work order shall not be removed, except by written notice of the village administrator after satisfactory evidence has been supplied that the cited violation has been corrected.

- (3) Each day each violation continues after the 30-day written notice period has run shall constitute a separate offense. Nothing in this article shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any provisions of this article or the Uniform Dwelling Code.
- (4) Double fees shall be charged of any construction or work governed by the provisions of this article or the Uniform Dwelling Code is commenced prior to the issuance of a permit.
- (c) Any person feeling aggrieved by an order or a determination of the village administrator may appeal from such order or determination to the board of appeals. The procedure customarily used to effectuate an appeal to the board of appeals shall apply.
- (d) Except as otherwise may be provided by statute or ordinance, no officer, agent or employee of the village who is charged with the enforcement of this chapter shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the village as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the legal representative of the village until the final determination of the proceedings in such suit.  
(Code 1988, § 10-4-16)

**Sec. 10-37 – 10-50. Reserved.**

**ARTICLE III. CONSTRUCTION SITE EROSION CONTROL.**

**Sec. 10-51. Authority.**

This article is adopted pursuant to the guidelines in Wis. Stats. § 62.234.  
(Code 1988, § 10-5-1)

**Sec. 10-52. Findings; purpose.**

(a) *Findings.* The village board finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the state and village.

(b) *Purpose.* It is the purpose of this article to:

- (1) Preserve the natural resources;
- (2) Protect the quality of the waters of the state and village; and
- (3) Protect and promote the health, safety and welfare of the people, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharge from construction sites to lakes, streams and wetlands.

(Code 1988, § 10-5-2)

**Sec. 10-53. Applicability; exemption.**

This article applies to land disturbing and land developing activities on land within the boundaries and jurisdiction of the village and the public and private lands subject to extraterritorial review under Wis. Stats. Ch 236. All state-funded or state-conducted construction is exempt from this article.

*Note* - State-funded or state-conducted construction activities must meet the requirements contained in the State Plan for the Control of Construction Erosion and Stormwater Runoff, which contains similar requirements as contained in this article, as a minimum.

(Code 1988, § 10-5-3)

**Sec. 10-54. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Agricultural land use* means the use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

*Commercial land use* means the use of land for the retail or wholesale sale of goods or services.

*Construction site control measure* means a control measure used to meet the requirements of section 10-61(b).

*Control measure* means a practice, or combination of practices, to control erosion and attendant pollution.



*Control plan* means a written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this article submitted by the applicant for review and approval by the building inspector.

*Erosion* means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

*Land developing activity* means the construction of buildings, roads, parking lots, paved storage areas and similar facilities.

*Land disturbing construction activity* means any manmade change of the land surface, including removing vegetation cover, excavating, filling and grading, but not including agricultural land uses, such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.

*Land user* means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his land.

*Landowner* means any person holding title to, or having any interest in, land.

*Runoff* means the rainfall, snowmelt or irrigation water flowing over the ground surface.

*Set of one-year design storms* means the following rain intensities and volumes or corresponding values specific to the village for storm the durations of 0.5, one, two, three, six, 12 and 24 hours, which occur approximately once per year, and are typical characteristics of the one-year storms for most of the state:

<i>Storm Duration (hours)</i>	<i>Rain Intensity (inches/hours)</i>	<i>Average Total Rain (inches)</i>
0	1.8	0.9
1	1.1	1.1
2	0.7	1.3
3	0.5	1.5
6	0.3	1.7
12	0.2	2.0
24	0.1	2.3

*Site* means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.  
(Code 1988, § 10-5-4)

**Cross reference** – Definitions generally, § 1-2.

**Sec. 10-55. Permit and control plan required.**

- (a) *Application fee.* No landowner or land user may commence a land disturbance or land

development activity subject to this article without receiving prior approval of a control plan for the site and a permit from the building inspector. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land development activity subject to this article shall submit an application for a permit and a control plan and pay an application fee as set by the village board from time to time and on file in the village offices to the building inspector. By submitting an application, the applicant is authorizing the building inspector to enter the site to obtain information required for a review of the control plan.

(b) *Content of the control plan for land disturbing activities covering more than one acre.* The control plan for land disturbing activities covering more than one acre shall contain the following:

- (1) *Existing site map.* A map of existing site conditions, on a scale of at least one inch equals 100 feet, showing the site and immediately adjacent areas, including:
  - (a) Site boundaries of adjacent lands which accurately identify the site location;
  - (b) Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site. (*Note:* The local unit of government should identify sensitive local waters that may need to be further addressed by the control plan.);
  - (c) 100-year floodplains, flood fringes and floodways;
  - (d) Location of the predominant soil types;
  - (e) Vegetative cover;
  - (f) Locations and dimensions of stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site;
  - (g) Locations and dimensions of utilities, structures, roads, highways and paving; and
  - (h) Site topography at a contour interval not to exceed five feet.
- (2) *Plan of final site conditions.* A plan of final site conditions, on the same scale as the existing site map as set forth in subsection (b)(1) of this section, showing the site changes.
- (3) *Site construction plan.* A site construction plan including:
  - (a) Locations and dimensions of all proposed land disturbing activities;
  - (b) Locations and dimensions of all temporary soil or dirt stockpiles;
  - (c) Locations and dimensions of all construction site management control measures necessary to meet the requirements of this article;
  - (d) Schedule of anticipated starting and completion dated of each land disturbing or land developing activity, including the installation of construction site control measures

needed to meet the requirements of this article; and

- (e) Provisions for maintenance of the construction site control measures during construction.

(c) *Content of control plan statement for land disturbing activities covering less than one acre, but meeting the applicability requirements of section 10-61(a).* An erosion control plan statement (with simple map) for land disturbing activities covering less than one acre shall be submitted to briefly describe the site and erosion controls, including the site development schedule, that will be used to meet the requirements of this article.

(d) *Review of control plan.* Within 45 days of receipt of the permit application, control plan or control plan statement, and fee, the building inspector shall review the application and control plan to determine if the requirements of this article are met. The building inspector shall approve the plan, inform the applicant and issue a permit. If the conditions of this article are not met, the building inspector shall inform the applicant in writing, and may either require the needed information or disapprove the plan. Within 30 days of receipt of the needed information, the building inspector shall again determine if the plan meets the requirements of this article. If the plan is disapproved, the building inspector shall inform the applicant in writing of the reasons for the disapproval.

- (e) *Permit conditions.*

(1) *Duration of validity; extension.* Permits shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The building inspector may extend the period one or more times for up to an additional 180 days. The building inspector may require additional control measures as a condition of the permit extension if such measures are necessary to meet the requirements of this article.

(2) *Surety bond or irrevocable letter of credit.* As a condition of approval and issuance of the permit, the building inspector may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.

(3) *Requirements.* All permits shall require the permittee to:

- (a) Notify the building inspector within 48 hours of commencing any land disturbing activity;
- (b) Notify the building inspector of completion of any control measures within 14 days after their installation;
- (c) Obtain permission in writing from the building inspector prior to modifying the control plan;
- (d) Install all control measures as identified in the approved control plan;
- (e) Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities as identified in the control plan;

- (f) Repair any situation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities;
- (g) Inspect the control measures after each rain of 0.5 inches or more and at least once each week, and make needed repairs;
- (h) Allow the building inspector to enter the site for the purpose of inspecting compliance with the control plan or performing any work necessary to bring the site into compliance with the control plan; and
- (i) Keep a copy of the control plan on the site.

(Code 1988, § 10-5-8)

### **Sec. 10-56. Inspections.**

The building inspector shall inspect construction site at least once a month during the period beginning March 1 and ending October 31 and at least two times during the period beginning November 1 and ending February 28 to ensure compliance with the control plan. If land disturbing or land development activities are being carried out without a permit, the building inspector shall enter the land pursuant to the provisions of Wis. Stats. § 66.0119.

(Code 1988, § 10-5-9)

### **Sec. 10-57. Stop work order; revocation of permit; violations; forfeiture; enforcement.**

- (a) The building inspector may post a stop work order if:
  - (1) Any land disturbing or land development activity regulated under this article is being undertaken without a permit;
  - (2) The control plan is not being implemented in a good faith manner; or
  - (3) The conditions of the permit are not being met.
- (b) If the permittee does not cease the activity or comply with the control plan or permit conditions within 10 days, the building inspector may revoke the permit.
- (c) If the landowner, or land user where not permit has been issued, does not cease the activity within 10 days, the building inspector may request the village attorney to obtain a cease and desist order.
- (d) Upon appeal, building inspector or board of appeals may retract the stop work order or permit revocation.
- (e) Ten days after posting a stop work order, the building inspector may issue a notice of intent to the permittee, landowner or land user of the building inspector's intent to perform work necessary to comply with this article. The building inspector may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the building inspector, plus interest at the rate authorized by the building inspector, shall be billed to the permittee or landowner. If a

permittee or landowner fails to pay the amount due, the village administrator shall enter the amount due on the tax rolls and collect such amount at a special assessment against the property pursuant to statute. Any person violating any of the provisions of this article shall be subject to a forfeiture as provided in section 1-27. Each day a violation of this article exists shall constitute a separate offense.

(f) Compliance with the provisions of this article may also be enforced in injunction.  
(Code 1988, § 10-5-10)

#### **Sec. 10-58. Appeals.**

(a) The board of appeals shall hear and decide where it is alleged that there is an error in any order, decision or determination made by the building inspector in administering this article. Upon appeal, the board of appeals may authorize variances from the provisions of this article which are not contrary to the public interest, and where owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship. The board of appeals shall use the rules, procedures, duties and powers authorized by statute for zoning boards of appeals in hearing and deciding appeals and authorizing variances.

(b) Any applicant, permittee, landowner or land user may appeal any order, decision or determination made by the building inspector in administering this article.  
(Code 1988, § 10-5-11)

#### **Sec. 10-59. Design criteria, standards and specifications for control measures.**

All control measures required to comply with this article shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the building inspector.  
(Code 1988, § 10-5-5)

#### **Sec. 10-60. Maintenance of control measures.**

All sedimentation basins and other control measures necessary to meet the requirements of this article shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and prevent nuisance conditions.  
(Code 1988, § 10-5-6)

#### **Sec. 10-61. Control of erosion and pollutants during land disturbance and development.**

(a) *Applicability.* This section applies to the following sites of land development or of land disturbing activities:

- (1) Sites requiring a subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.
- (2) Sites requiring a certified survey approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.

- (3) Sites involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more.
  - (4) Sites involving excavation or filling, or a combination thereof, affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.
  - (5) Sites involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
  - (6) Sites involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more.
- (b) *Miscellaneous requirements.* The following requirements shall be met on all sites described in subsection (a) of this section:
- (1) *Site dewatering.* Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up-slope chambers, hydroclones, swirl concentrators or other appropriate controls designed and used to remove particles of 100 microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the building inspector. Water may not be discharged in a manner that causes erosion of the site or receiving channels.  
*Note –* There are several ways to meet such particle size performance objectives, depending on the pumping rate. As an example, if the pumping rate is very low (one gal./min.) than an inclined or vertical enlargement pipe (about eight inches in diameter for one gal./min.) several feet long would be an adequate control device to restrict the discharge of 100 micron, and larger, particles. As the pumping rate increases, then the device must be enlarged. At a moderate (100 gal./min.) pumping rate, a vertical section of corrugated steel pipe, concrete pipe section or other small tank (about 4 ½ feet across form a 100 gal./min. pumping rate) several feet tall would be adequate. With such pipe sections or small tanks, inlet baffles would be needed to minimize turbulence. With very large pumping rates (10,000 gal./min.), sediment basins (about 35 feet in diameter for a pumping rate of 10,000 gal./min.) at least three feet in depth, with a simple, but adequately sized, pipe outlet would be needed. More sophisticated devices, such as swirl concentrators or hydroclones, could be specially fabricated that would generally be smaller than the simple sedimentation devices described in this note, but they would not be required.
  - (2) *Disposal of waste and unused building materials.* All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials, shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.
  - (3) *Tracking.* Each site shall have gravel roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways.
  - (4) *Drain inlet protection.* All storm drain inlets shall be protected with a straw bale, filter fabric or equivalent barrier which meets accepted design criteria, standards and specifications.

- (5) *Site erosion control.* The following criteria shall apply only to land development or land disturbing activities that result in runoff leaving the site:
- (a) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described in subsection (b)(5)c.3. of this section. Sheetflow runoff from adjacent areas, greater than 10,000 square feet in area, shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5 ft./sec. across the disturbed area for the set of one-year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.  
*Note* – Soil and conservation service guidelines for allowable velocities in different types of channels should be followed.
  - (b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
  - (c) Runoff from the entire disturbed area on the site shall be controlled by meeting either of the following:
    - (1) All disturbed ground left inactive for seven days or more shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching, covering or other equivalent control measures.
    - (2) For sites with more than 10 acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin and at least three feet of depth, and be constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of one-year design storms having durations from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low to not cause erosion along the discharge channel or the receiving water.
    - (3) For with less than 10 acres disturbed at one time, filter fences, straw bales or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
  - (d) Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. If such piles remain for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction soil or dirt piles located closer than 25 feet to a roadway or drainage channel must be covered with tarps or suitable alternative controls if exposed for more than seven days, and the storm drain inlets must be

protected with straw bales or other appropriate filtering barriers.  
(Code 1988, § 10-5-7)

**Secs. 10-62 – 10-90. Reserved.**

#### **ARTICLE IV. TELECOMMUNICATIONS FACILITIES**

##### **Sec. 10-91. Purpose.**

The purpose of this section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunications towers, antennas and facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the Village of Spring Valley, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that the Village of Spring Valley shall apply these regulations to accomplish the following:

- (1) Facilitate the provision of non-discriminatory and competitive wireless telecommunications services to the residents and businesses of the village.
- (2) Provide a process for obtaining necessary permits for telecommunications facilities while protecting the interests of the citizens of the village.
- (3) Avoid potential damage to adjacent properties through tower failure by establishing structural standards and setback requirements.
- (4) Minimize adverse visual effects of towers, antennas and facilities through careful design and siting standards.
- (5) Minimize the total number of towers in the village through the use of alternative support structures, co-location of new antennas on existing towers and buildings, and construction of towers with the ability to locate four or more providers.
- (6) Protect environmentally sensitive areas of the village, including the protection of migratory birds, through the placement of a maximum height limitation on new towers, the effective prohibition of guyed tower structures, and the prohibition of towers in key habitat areas such as wetlands, shore lands and floodplains.

(Ord. of 7-6-2005, § 7-6-05(a))

##### **Sec. 10-92. Definitions.**

The following definitions shall apply to this section unless the content dictates otherwise. All definitions in Spring Valley Code of Ordinances shall apply unless specifically defined in this section.

*Alternative support structure* means structures including, but not limited to, clock towers, steeples, silos, light poles, water towers, free-standing chimneys, utility poles and towers, towers, buildings or similar structures that may support telecommunications facilities.



*Antenna* means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnection the boom and antenna support, all of which are deemed to be a part of the antenna.

*Antenna building mounted* means any antenna, other than the antenna with its support resting on the ground directly attached or affixed to a building.

*Antenna ground mounted* means any antenna with its base placed directly on the ground.

*Camouflaged tower* means any telecommunications tower that, due to design or appearances hides, obscures, or conceals the presence of the tower and antennas. Camouflaging may be accomplished by a suitable combination of the following examples: lack of lighting, low tower height, non-contrasting colors, screening and landscaping and others.

*Carrier* means companies licensed by the Federal Communications Commission (FCC) to build personal wireless telecommunications facilities and operate personal wireless telecommunications services. Also called a provider.

*Co-location* means a telecommunications facility comprised of a single telecommunications tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

*FAA* means Federal Aviation Administration.

*FCC* means Federal Communications Commission.

*Ground equipment* means telecommunications facility support equipment and buildings.

*Guyed structure* means a telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

*Height, telecommunications tower* means the distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, and lighting.

*Lattice structure* means a telecommunications tower that consists of vertical and horizontal supports and crossed metal braces.

*Monopole structure* means a telecommunications tower of a single pole design.

*Operation* means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.

*Provider:* see carrier.

*Satellite dish* means a device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVR05 and satellite microwave antennas.

*Telecommunications facility* means a facility, site, or location that contains one or more antennas, telecommunications towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment, which is used for transmitting, receiving or relaying telecommunications signals, excluding facilities exempted under section 10-93.

*Telecommunications facility structure* means a telecommunications tower or alternative support structure on which telecommunications antenna(s) may be mounted.

*Telecommunications tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under section 10-93.

*Utility pole mounted antenna* means an antenna attached to or upon an existing or replacement electric transmission or distribution pole, streetlight, traffic signal, athletic field light, or other approved similar structure.

*Village* means Village of Spring Valley.  
(Ord. of 7-6-2005, § 7-6-05(b))

**Cross reference** – Definitions generally, § 1-2.

### **Sec. 10-93. Exemptions.**

(a) Any pre-existing tower or antenna for which permits have been issued prior to the effective date of this section is exempt from its provisions. Any addition or change to a pre-existing tower shall make such tower subject to all applicable requirements of this section.

(b) Any new antenna or ground equipment proposed for an existing tower or alternative support structure shall be exempt from the conditional use permit requirements of this section, and shall only require a land use permit from the village.

(c) Any tower or antenna that is used exclusively for federally licensed amateur radio is exempt from this section, unless the tower or antenna exceeds 100 feet in height.

(d) Receive-only television or radio antennas and receive-only satellite dishes are exempt from this section, unless the antennas or dishes exceed 100 feet in height.

(e) Public safety towers or antennas used for law enforcement and emergency communications are exempt from this section.

(f) Mobile services providing public information coverage of news of temporary or emergency natures exempt from this section.

(g) Exempt structures under this section are subject to all other applicable provisions of the municipal zoning code of the village.

(Ord. of 7-6-2005, § 7-6-05(c))

**Sec. 10-94. Areas where telecommunications facilities may be allowed or prohibited.**

(a) Telecommunications facilities may be allowed as a conditional use only in the following zoning districts, subject to public hearing and review by the planning commission and approval by the board of trustees:

- (1) A-1 Agricultural District, as defined by Sec. 10-1-24 village zoning section.
- (2) I-1 Industrial District, as defined by Sec. 10-1-29 village zoning section.
- (3) G-1 Institutional District, as defined by Sec. 10-1-30 village zoning section.

(b) Telecommunications facilities, exempt facilities, shall not be allowed in the following areas due to potential harm to the environment:

- (1) Wetlands.
- (2) Shore lands.
- (3) Floodplains.

(c) Telecommunications facilities, exempt facilities, shall not be allowed in the following areas due to potential conflict with other uses of the land:

- (1) Habitat areas of threatened or endangered species.
- (2) Areas designed form planned residential use by the Village of Spring Valley.
- (3) Significant historic or cultural sites or buildings.

(Ord. of 7-6-2005, § 7-6-05(d))

**Sec. 10-95. Conditional use permit required.**

(a) A conditional use permit is required for all telecommunications facilities, except exempt facilities. A conditional use permit is also required for existing towers and alternative support structures which are substantially modified. Sections 10-1-60 through 10-1-71 of the Village of Spring Valley Municipal Code shall apply to all telecommunications facilities.

(b) The zoning administrator and the planning commission shall review a conditional use permit

application for compliance with the provisions of this section. The administrator shall complete a communication facility decision form to record the commission's decision in writing. The conditional use permit will be issued only if approved by the village board of trustees.

(c) In addition to the information required by 10-1-60 through 10-1-71, the application shall include the following:

- (1) A legal description of the facility site.
- (2) A plat of survey showing the parcel boundaries, lease boundaries, tower, accessory structures, ancillary facilities, location, access, landscaping and fencing.
- (3) An original signature of the applicant and/or landowner; the identity of the carrier, service provider, applicant, landowner and their legal status and; the name, address and telephone number of the officer, agent or employee responsible for the application.
- (4) A description of the telecommunications services that the applicant offers or provides to persons, firms, businesses or institutions.
- (5) In the case of a leased site, a lease agreement or binding lease memorandum which shows on its face that it does not preclude the facility owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
- (6) A description of the proposed tower's height and capacity, including the potential number and type of antennas and carriers/providers that it can accommodate.
- (7) Location of all sites that were considered as possible alternatives to the site being applied for, including existing structures and towers, and the reasons for recommending the current site.
- (8) Photo simulations of the proposed facility from points of interest as identified by the zoning administrator. A photo simulation shall be no smaller than eight inches by ten inches.
- (9) A tabular and map inventory of all the applicant's existing telecommunications facilities located within the Village of Spring Valley and including all of the applicant's existing telecommunications facilities within three miles of the village boundary.
- (10) FCC license numbers and registration numbers, if applicable.
- (11) Copies of finding no significant impacts (FONSI) statement from the FCC or environmental impact study (EIS), if applicable.
- (12) Copies of the determination of no hazard from the FAA including any aeronautical study determination or other findings from the Wisconsin Department of Transportation bureau of Aeronautics, if applicable.
- (13) A report prepared by a structural engineer licensed by the state of Wisconsin certifying the

structural design of the tower and its ability to accommodate at least three additional antennas.

- (14) Proof of liability coverage. The Village of Spring Valley shall be a certificate holder in this policy.
- (15) Proof of financial security for tower removal as defined in subsection 10-99(2).
- (16) Such other information as the department, the planning commission or the village board of trustees may reasonably require.
- (17) A narrative demonstrating how the applicant has complied with the requirements for the all telecommunications facility conditional use permit.

(d) The village board of trustees may employ on behalf of the village any independent technical expert to review technical materials submitted by the applicant or to prepare any technical materials required but not submitted by the applicant. The applicant shall pay the reasonable costs of such review and/or independent analysis, and shall pay the estimated cost of such services before they are rendered. All invoices, fees and charges shall be paid in full before the issuance of a conditional use permit.

(Ord. of 7-6-2005, § 7-6-05(e))

#### **Sec. 10-96. Collocation.**

Collocation shall be the preferred method for establishing new telecommunications facilities. Every effort shall be made to collocate the proposed facility on existing telecommunications facilities or other similar facilities or alternative support structures.

(a) No tower or structure shall be permitted as a matter of right or shall be permissible as a conditional use in any zoning district unless the applicant proves with sufficient credible evidence to the satisfaction of the village board of trustees, after review by the planning commission, that no existing tower can accommodate the applicant's proposed antenna. Sufficient credible evidence shall consist of not less than a signed statement by a licensed professional engineer that:

- (1) No existing towers or alternative support structures are located within the geographic area required to meet the applicant's engineering requirements.
- (2) Existing towers or alternative support structures are not of sufficient height to meet the applicant's engineering requirements.
- (3) Existing towers or alternative support structures do not have sufficient strength to support the applicant's proposed antenna and related equipment.
- (4) The fees, costs or contractual provisions required by the owner to share an existing tower or alternative support structure or to adapt and existing tower or alternative support structure for collocation are unreasonable. Costs are considered unreasonable if they exceed 125 percent of new tower construction and development.
- (5) The applicant demonstrates that there are other limiting factors that render existing towers or

alternative support structures unsuitable.

(b) Tower owners are required to accommodate the applicant's antenna and compatible antennas for at least three additional users (a minimum of four total users) if the tower structure exceeds 100 feet in height. Any owner authorized to construct a tower or structure who refuses to allow use by other parties by the position of contractual provisions, fees, or costs that are unreasonable shall be subject to revocation of the conditional use permit.

(c) All collocation inquiries made to an owner shall be made in writing. An owner who is contacted for the purpose of potential collocation shall respond in writing within 30 days of receipt of a written inquiry.

(d) The village and local government agencies shall have the right to reserve space upon any new tower or upon any tower being substantially modified. Reservation of the accommodation upon the structure shall be acquired during the permit approval process through good faith negotiations with the applicant.

(Ord. of 7-6-2005, § 7-6-05(f))

#### **Sec. 10-97. Design requirements.**

(a) All towers and antennas must comply with all FCC and FAA rules and regulations.

(b) The design and installation of all towers and antennas shall comply with the manufacturer's specifications. Plans shall be approved and certified by a registered professional engineer.

(c) Installation of all towers shall comply with all applicable state building and electrical codes.

(d) Lattice towers may be allowed if all other requirements of this article are met.

(e) Monopole structures may be allowed if all other requirements of this article are met.

(f) Guyed structures shall only be allowed if the applicant demonstrates to the satisfaction of the village board of trustees that no other type of telecommunications facility structure will provide and equivalent level of service. Economic considerations shall not be used in determining whether a guyed structure may be used.

(g) Height of all telecommunications towers shall be limited to no more than 199 feet above original grade, unless the applicant can demonstrate to the satisfaction of the planning commission that a greater height is necessary to provide coverage meeting the minimum requirements of the FCC license and that no feasible alternative exists to provide coverage, such as collocating on existing telecommunications towers or alternative support structures, constructing a new tower in a different location or constructing multiple towers of a shorter height.

(h) New towers shall be designed structurally and electrically to accommodate the applicant's antenna and comparable antennas for at least three additional users (minimum of four total users). Towers must also be designed to allow for future rearrangement of antennas on the tower and to accept

antennas mounted at different heights.  
(Ord. of 7-6-2005, § 7-6-05(g))

**Sec. 10-98. Performance standards.**

(a) *Monitoring and reporting.* The applicant shall monitor the telecommunications facility to ensure full compliance with FCC regulations. A report shall be submitted to the department within one month of activation of the facility. Additional reports shall be submitted as needed in conformance with section 10-101.

(b) *Insurance.* All towers, antennas and telecommunications structures must be adequately insured for injury to persons and damage to property. The village shall be listed as an additional insured for liability in the event of tower or facility failure.

(c) *Security for removal.* The applicant or owner of the telecommunications facility shall provide a bond, irrevocable letter of credit or other suitable financial guarantee as determined by the planning commission to ensure the removal of the facility and restoration of the site to its preconstruction state when use of the facility has been discontinued as defined by section 10-99. The village shall be a certificate holder in the financial guarantee.

(d) *Security.* All telecommunications facilities shall be reasonably protected against unauthorized access. The bottom of all towers from the ground level to 12 feet above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a six-foot high chainlink fence with a locked gate. Guy anchors of guyed towers shall be similarly protected.

(e) *Signs.* Signs shall be mounted on the fence enclosure or on adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and unauthorized climbing of the tower, and identifying the owner of the tower and telephone number for contact in case of emergency. The sign shall be no larger than six square feet. No commercial advertising sign may be located on a telecommunications facility site.

(f) *Screening and landscaping.* All telecommunications facilities, except exempt facilities, shall be designed to blend into the surrounding environment and to hide views of the facility from adjoining properties and public roads to the greatest extent feasible.

- (1) Existing mature vegetation and natural landforms shall be preserved to the greatest extent possible.
- (2) In locations where existing mature vegetation and landforms will not adequately screen the views of the facility, the site shall be landscaped and maintained with a buffer of plant materials.
  - (a) The landscape buffer shall effectively screen the view of all tower accessory structures, equipment and improvements at ground level.
  - (b) The area shall be so designed and planted so as to be 75 percent or more opaque between two feet and six feet above ground level within not less than 24 months of the date of planting.

- (c) Upon project completion the owner/operator of the facility shall be responsible for maintenance and replacement of all required landscaping and screening.
  - (d) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the village board upon the recommendation of the planning commission.
- (3) A camouflaged tower may be required by the village board of trustees in order to minimize adverse visual effects.
- (g) *Lighting.* No lighting shall of the principal telecommunications facility structure shall be allowed unless required by the FAA or the FCC. If required, lighting shall be installed only when no other options are available.
- (1) Red lights shall be preferred to white lights on the primary telecommunications facility structure or tower.
  - (2) High visibility paint shall be preferred to daytime lighting of any kind on the primary telecommunications facility structure or tower.
  - (3) Lighting of accessory structures and the telecommunications facility site may be permitted by the village board upon the recommendation of the planning commission if it is of low intensity, directed inward and downward and is limited to within the facility site boundary.
- (h) *Access.* Access to a telecommunications facility shall be provided by an all-weather gravel or paved driveway.
- (i) *Setbacks.* The following minimum setback distances shall apply to the telecommunications facilities:
- (1) No tower shall be located within 300 feet of any residence other than the residence on the parcel on which the tower is to be located.
  - (2) No tower shall be located within 600 feet of any school, or any single-family dwelling within major plats, county plats, or residential zoning districts.
  - (3) Tower structures shall be set back from the nearest property line, and from the residence on the parcel on which the tower is to be located, by a distance equal to the height of the tower. This setback may be reduced to one-half the height of the tower if the applicant submits a report stamped by a professional engineer registered in the state that certifies that the tower is designed and engineered to collapse upon failure within the distance from the tower to the property line.
  - (4) Tower structures shall be set back from the nearest road right-of-way a distance equal to the height of the tower. This setback may be reduced to one-half the height of the tower if the applicant submits a report stamped by a professional engineer registered in the state that certifies that the tower is designed and engineered to collapse upon failure within the distance from the tower to the road right-of-way.



- (5) All guy wire anchors shall be set back at least 25 feet from all property lines; this does not include leased parcels with boundaries located within a larger property. Subsurface anchors or portions of anchors that are subsurface shall be located on the property in which the tower has been constructed.
- (6) Setbacks required for telecommunications towers shall be measured from the center of the tower structure.
- (7) The required separation distance between tower and dwelling and/or subdivision may be reduced by obtaining the written agreement of the adjacent property owner, with the approval of the village board.
- (j) *Lot size.* When a new lot is created for the purpose of locating a telecommunications facility, the minimum lot size for that zoning district shall apply.
- (k) *Facility construction.* All telecommunications facilities approved with a conditional use permit shall be completely constructed and in operation within six months of the date of approval. An extension of time, not to exceed six months, may be granted by the village board due to inclement weather or other extenuating circumstances. There is no additional fee for an extension.  
(Ord. of 7-6-2005, § 7-6-05(h))

**Sec. 10-99. Removal of abandoned telecommunications facility.**

It is the express policy of the village that telecommunications facilities be removed and their sites restored to their preconstruction state once they are no longer in use and not a functional part of providing telecommunications service.

- (1) Removal and restoration of such facilities is the responsibility of the owner of the facility.
- (2) The telecommunications facility shall be removed when use of the facility has been discontinued or the facility has not been used for its permitted purpose for 12 consecutive months. Mere intent to continue use of the facility shall not constitute use. The applicant/owner shall demonstrate through facility lease or other similar instruments that the use will be continued without a lapse of 12 consecutive months to constitute actual use. If the applicant cannot demonstrate actual use, the facility shall be considered abandoned and shall be removed.
- (3) This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility.
- (4) Nothing in this section prevents the removal of the facility prior to expiration of the 12-month period.

(Ord. of 7-6-2005, § 7-6-05(i))

**Sec. 10-100. Compliance review and revocation.**

Each telecommunications facility under the jurisdiction of this article will be reviewed by the village for compliance each year. To facilitate the review, each telecommunications tower owner shall submit

annually on or before January 31 of each year to the zoning administrator a telecommunications facility annual information report. This annual report shall include the owner names, addresses, phone numbers, contact person, and any other appropriate information deemed necessary by the village board. The owner shall supply the number of collocation positions designated, occupied or vacant. The information shall be submitted on a village form, designated for such use, and shall become evidence of compliance. An annual fee shall be collected from the owner to fund the review of the facility. A failure to comply with the requirements of this section may result in the revocation of a conditional use permit, if such action is deemed necessary by the village board.

(Ord. of 7-6-2005, § 7-6-05(j))

**Sec. 10-101. Fees.**

Permit and review fees for telecommunications facilities are as set from time to time by the village board for the following:

- (1) Conditional use for telecommunications facility.
- (2) Annual compliance review for telecommunications facility.

(Ord. of 7-6-2005, § 7-6-05(k))

Chapters 11- 13  
**RESERVED**

